



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

ACTION MEMO

FOR: CHIEF OF NAVAL OPERATIONS

FROM: VADM John B. Nowell, Jr, Deputy Chief of Naval Operations (Manpower,
Personnel, Training and Education) (N1)

(b) (6) 022.03.04
1:39:12 -05'00'

SUBJECT: Religious Accommodation Appeal ICO AWS1 Aaron W. Crabb, USN

- CNO, respectfully recommend denial of an appeal from a disapproved religious accommodation request in the case of AWS1 Aaron W. Crabb. AWS1 Crabb, assigned to Helicopter Sea Combat Squadron FOUR, requests to be exempted from the COVID-19 vaccine requirement due to Christian religious beliefs.
- AWS1 Crabb objects to receipt of *any COVID-19* vaccines available in the United States at this time based on an objection that these vaccines were tested on or produced using cell lines that originated from fetal tissue. The request is also based on a religious objection to abortion.
- AWS1 Crabb asserts an objection to vaccination based on a belief that their “body is a temple of the Holy Spirit, and it is not my own.” Member also asserted “Because an unborn baby is human, the killing of this baby constitutes murder by the Ten Commandments.”
- AWS1 Crabb asserted they had a “previous infection from SARS CoV-2, I have protective natural antibodies post-infection that are sustained longer than that of the vaccine.”
- AWS1 Crabb does not currently have a vaccine exemption and has received other vaccines required for military service.
- Sailors must receive the traditional childhood vaccines to access into the Navy. After initial entry training, the vaccines Sailors are likely to require during their careers are the annual influenza vaccine, Tdap (every 10 years), and any location-specific vaccines the requester may require for future deployments or overseas assignments (e.g., yellow fever, typhoid fever, anthrax, Japanese encephalitis etc.).
- Commanding Officer (CO), Helicopter Sea Combat Squadron FOUR, and Commander, Carrier Air Wing TWO, recommend disapproval of the religious accommodation.
- AWS1 Crabb is assigned to Helicopter Sea Combat Squadron FOUR. While AWS1 Crabb currently serves at an operational shore-based command, the requester is likely to spend significant portions of their career deployed/operationally at sea. Sailors assigned to shore-based operational billets serve in a critical operational readiness role and either directly

SUBJECT: Religious Accommodation Appeal ICO AWS1 Aaron W. Crabb, USN

deploy, prepare other sailors for deployment, or maintain an operationally ready force and interact with deployable forces.

- The Navy counts on all members to accomplish their individual missions. The requester must be ready to deploy at a moment's notice. The FDA-approved Pfizer COVID-19 vaccine takes five weeks to become fully effective. Other vaccines require similar timeframes to provide immunity. Allowing a member to wait to receive vaccines would interfere with short notice deployability, an important aspect of readiness. Additionally, unvaccinated sailors could more easily transmit COVID-19 to other personnel they interact with on a daily basis than vaccinated colleagues.
- There has been no evidence of a material change in facts since AWS1 Crabb submitted their original religious accommodation request. In the appeal, AWS1 Crabb provided the same substantive basis for the request as was provided in the original request.
- A draft disapproval letter is provided as TAB A. The original religious accommodation request is TAB B. It contains the interviewing chaplain's statement regarding the requestor's sincerity of religious belief. The chaplain indicated the requestor's beliefs seemed sincere.
- The original disapproval is TAB C. This request was disapproved based on my determination that vaccination was the least restrictive means available to further the Navy's compelling government interest in preventing spread of diseases to support mission accomplishment, including military readiness, unit cohesion, good order and discipline, or health and safety, at the individual, unit, and organizational levels.
- TAB D contains the requester's appeal, chain of command endorsement, and supporting documentation.
- TAB E is the endorsement of Chief, Bureau of Medicine and Surgery (BUMED). It reports that vaccines are the most effective means to prevent COVID-19 and other vaccine-preventable diseases. TAB F is a report from BUMED explaining the specific scientific and medical rationale for vaccine requirements for vaccine-preventable diseases. TABs E and F address the limited effectiveness of non-pharmaceutical interventions (NPIs) in preventing spread of disease. TAB G is a memorandum from Director, Military Personnel Plans and Policy Division, N13, addressing the compelling government interest in requiring Navy personnel to receive vaccinations and analyzing the means available to achieve that compelling government interest.
- TABs E, F and G report that vaccination of Navy personnel supports both individual and unit mission readiness. Vaccination reduces the risk to the individual for disease-related performance impairment, and it reduces the risk to the unit for disease outbreaks of contagious diseases including COVID-19 and influenza. Without the COVID-19 vaccine, the requester will have a higher risk of contracting COVID-19 and of transmitting it to their co-workers. As explained in TAB G, the cost of an immunization exemption for the Navy is increased risk of mission failure.

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- In line with TAB H, Department of Defense Instruction 1300.17 (Religious Liberty in the Military Services) dated September 1, 2020, I have reviewed the recommendations of the local chaplain, chain of command, legal counsel, Chief of Chaplains and BUMED, and I find that denying this appeal is appropriate given the Navy's compelling interest in preventing spread of vaccine-preventable diseases to support mission accomplishment, including military readiness, unit cohesion, good order and discipline, and health and safety, at the individual, unit, and organizational levels. I have considered other means of accomplishing the Navy's compelling interest, but conclude that vaccination is the least restrictive means available under the circumstances.
- Non-Pharmaceutical Interventions (NPI). As TABs E and F explain, NPI work best when the entire community engages in the practice of NPI, and the efficacy of NPI alone has not been scientifically established.
- As explained in TAB G, it is clear NPI are not effective in shipboard and deployed environments due to intrinsic characteristics of those environments, including the need for Sailors to sleep, eat, shower, and brush their teeth in close proximity to one and other.
- Further, unvaccinated personnel remain at risk during off-duty hours when they could be exposed to unvaccinated persons who would likely not be following NPI. Unvaccinated Navy personnel could then spread disease within the workplace. As a result, even presuming that this requester was able to strictly adhere to multiple methods of NPI, the efficacy of an "NPI only" course of action would be insufficient to further the Navy's compelling government interests.
- Alternate means to prove existing immunity. Reference (c) of TAB E, BUMED Instruction 6230.15B provides a medical exemption from vaccination when serology or documentation of a previous infection can establish an individual has immunity. However, previous infection with COVID-19 or influenza has not been shown to provide long-term immunity. Therefore, I conclude previous infection is insufficient to further the Navy's compelling government interest. To the extent a Sailor qualifies for a medical exemption from another vaccination per BUMED Instruction 6230.15B, the Sailor's primary care manager is the appropriate official for adjudicating that request.
- Telework. This Sailor is assigned to a shore-based operational unit and could not effectively accomplished their mission through telework.
- Reassignment. Due to the nature of the military specialty this requester holds, reassignment to a position that would allow for a vaccination exemption is not a viable alternative.
- Change of Designator or NEC. There are no Navy communities well-suited to a blanket exemption from the requirement for Navy personnel to receive the COVID-19 vaccination or the other vaccinations at issue here. Further, regardless of designator or rating, all Navy personnel are required to be world-wide deployable.

SUBJECT: Religious Accommodation Appeal ICO AWS1 Aaron W. Crabb, USN

- Based on the available information, I have determined that, with respect to this request, the least restrictive means of furthering the Navy's compelling government interest in mission accomplishment is to require receipt of vaccinations.

RECOMMENDATION: CNO, request you sign TAB A, disapproving this request for a religious accommodation exemption from immunization.

Attachments:

As stated

Prepared By: (b) (6) Officer Plans and Policy Branch, (b) (6)



DEPARTMENT OF THE NAVY
COMMANDER CARRIER AIR WING TWO
30 SKYTRAIN AVE UNIT TWO
LEMOORE CA 93246-6005

1730
Ser N00/1 85
12 Sep 21

FIRST ENDORSEMENT on CO, HSC-4 ltr 1000 Ser 00/184 of 10 Sep 21

From: Commander, Carrier Air Wing TWO
To: Chief of Naval Personnel

Subj: DISAPPROVAL RECOMMENDATION ICO AWS1 AARON CRABB
RELIGIOUS ACCOMMODATION

1. I have reviewed the subject request submitted to me on 11 September 2021. I concur with HSC-4's endorsement and recommend disapproval of AWS1 Crabb's request.
2. The Commanding Officer's endorsement and justification meet all requirements of governing instructions. As the Commanding Officer states, enforcing Department of Defense policy on mandatory COVID-19 vaccination is critical to reducing community transmission of COVID-19 while maintaining mission assurance.

(b) (6)

T. F. LOCKE

Copy to:
HSC-4
CSG-1



DEPARTMENT OF THE NAVY
HELICOPTER SEA COMBAT SQUADRON FOUR
PO BOX 357101
SAN DIEGO CA 92135-7101

1000
Ser 00/184
10 Sep 21

From: Commanding Officer, Helicopter Sea Combat Squadron FOUR
To: Chief of Naval Personnel
Via: Commander, Carrier Air Wing TWO

Subj: DISAPPROVAL RECOMMENDATION ICO AWS1 AARON CRABB RELIGIOUS
ACCOMODATION

Ref: (a) DoD Instruction 1300.17
(b) SECNAVINST 1730.8
(c) BUPERSINST 1730.11
(d) BUMEDINST 6230.15B
(e) MILPERSMAN 1730-020
(f) Secretary of Defense Memo of 24 Aug 2021, "Mandatory Coronavirus Disease
Vaccination of Department of Defense Service Members
(g) NAVADMIN 110/21
(h) COMPAFLT GENADMIN OF CONSOLIDATED CPF COVID-19 GUIDANCE 4.2

Encl: (1) AWS1 Crabb request of 7 September 21
(2) AWS1 Crabb 1070/613 of 7 September 2021
(3) Military chaplain endorsement dtd 6 September 2021
(4) Healthcare provider counseling dtd 3 September 2021

1. Per reference (a) through (i), I am forwarding this request recommending disapproval in full.
2. The following information was considered or is provided for consideration as applicable.

a. Secretary of Defense guidance, reference (f), and Chief of Naval Operations guidance, reference (h), require Petty Officer Crabb to receive a COVID-19 vaccine. Further, Commander, U.S. Pacific Fleet guidance in reference (i) prescribes necessary measures to preserve mission assurance and force health protection. An exception to policy would have a negative impact on safety in my unit given community transmission levels associated with the Delta Variant of COVID-19.

b. The importance of the applicable military policies highlights the risks to mission readiness and health of the force associated with having a non-immunized force. Accordingly, I recommend disapproval of Petty Officer Crabb's request in order to both minimize the risk of community transmission of COVID-19 and ensure Petty Officer Crabb's wellbeing so that my squadron can maintain its ability to execute all assigned tasking.

c. Denial of Petty Officer Crabb's request furthers compelling government interests — health of the force, military readiness, and mission assurance. There is no less restrictive means of accommodating Petty Officer Crabb's request due to his request to be exempted from all three currently available COVID-19 vaccines.

d. There are (0) service members in my squadron who have been granted a similar exemption.

3. A military chaplain endorsement of Petty Officer Crabb's request is attached as enclosure (3). I believe Petty Officer Crabb is sincere in his personal beliefs. Petty Officer Crabb received required counseling from a healthcare provider, attached as enclosure (4).

4. My point of contact (POC) for this matter is CDR (b) (6) who can be reached at (b) (6) @cvw2.navy.mil.

5. This recommendation was submitted to me on 8 September 2021 and will be emailed to OPNAV N131 for review/decision, via Commander Carrier Air Wing TWO.

(b) (6)

T. J. MURRAY

Copy to:
AWS1 Crabb

07 SEP 21

From: AWS1, Crabb Aaron, W., USN, Helicopter Sea Combat Squadron FOUR
To: Deputy Chief of Naval Operations, CNO N1
Via: Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: REQUEST FOR RELIGIOUS VACCINE ACCOMODATION IN SUPPORT OF
SINCERE RELIGIOUS BELIEFS

Ref: (a) DoD Instruction 1300.17 of 1 September 2021
(b) SECNAVINST 1730.9
(c) BUPERINST 1730.11A
(d) BUPERINST 6230.15B
(e) MILPERSMAN 1730-020
(f) MANMED CHANGE 141 Manual of the Medical Dept USN NAVMED P-117

1. Pursuant to references (a) through (f), I hereby request religious accommodation from Navy policy reference (d) to be exempted from the Covid-19 shot because all manufacturers use aborted fetal cells. Receiving an injection or medical treatment that uses aborted fetal cell lines in the actual injection or as part of their development or testing, no matter how remote in time that abortion occurred, directly violates my sincerely held belief that all life is sacred.

2. As a Christian, I believe that life begins at conception. The Lord makes this very clear in Jeremiah 1:4-5, that God knows us before we are conceived. He even speaks in Psalm 139:13-16 of the role that He plays in our forming and of knowing us before we are even born. (For thou hast possessed my reins: thou hast covered me in my mother's womb. I will praise thee; for I am fearfully and wonderfully made: marvelous are thy works; and that my soul knoweth right well. My substance was not hid from thee, when I was made in secret, and curiously wrought in the lowest part of the earth. Thine eyes did see my substance, yet being unperfect; and in thy book all my members were written, which in continuance were fashioned, when as yet there was none of them.) Because an unborn baby is human, the killing of this baby constitutes murder by the Ten Commandments. (Exodus 20:13 Thou shalt not kill.)

I believe that it is my duty as a Christian to not violate God's law and to remain blameless in His sight. (I Thessalonians 5:23 And the very God of peace sanctify you wholly; and I pray God your whole spirit and soul and body be preserved blameless unto the coming of our Lord Jesus Christ.) My body is the temple of the Holy Spirit and it is not my own. (I Corinthians 6:19-20 What? Know ye not that your body is the temple of the Holy Ghost which is in you, which ye have of God, and ye are not your own? For ye are bought with a price: therefore glorify God in your body, and in your spirit, which are God's.) I cannot do this thing, that I sincerely believe is wrong and remain blameless before God. (James 4:17 Therefore to him that knoweth to do good, and doeth it not, to him it is sin.) I am wholly committed to following Jesus and his Scriptures in all aspects of my life. (Deuteronomy 10:1 Therefore thou shalt love the Lord thy God, and keep his charge, and his statutes, and his judgments, and his commandments, always.) I cannot be a part of something that the Lord hates.

Enclosure (1)

The Lord calls the shedding of innocent blood an abomination (Proverbs 6:16-17 These six things doth the Lord hate: yea, seven are an abomination to him: ...hands that shed innocent blood...) Therefore, by taking the Covid 19 shot, I have part in the taking of a life and this is in direct violation to my sincerely held religious beliefs.

3. I certify that understand I understand that any approved or partially approved waiver may not be appropriate for future duty to which I may be assigned, including operational, non-Operational or training command(s), and may be suspended or withdrawn in accordance with reference (c).

(b) (6)

A.W. Crabb

ADMINISTRATIVE REMARKS

NAVPERS 1070/613 (REV. 08-2012) PREVIOUS EDITIONS ARE OBSOLETE

SUPPORTING DIRECTIVE MILPERSMAN 1070-320

SHIP OR STATION:

HSC-4

SUBJECT:

Religious Accommodation

☒ PERMANENT☐ TEMPORARY

AUTHORITY (IF PERMANENT):

I request a waiver from all vaccinations, including the Covid-19 shot immunization. I hereby state that my request is based upon the receiving of an injection or medical treatment that uses aborted fetal cell lines in the actual injection or as part of their development or testing, no matter how remote in time that abortion occurred, directly violates this sincerely held belief. I acknowledge having received the following counseling:

1. Failure to obtain immunization poses additional risk to my health upon exposure to disease.
2. In the event of foreign travel, I may be detained during travel across foreign borders due to international health regulations.
3. If granted, a waiver may be revoked by my commanding officer if I am at imminent risk of disease or due to international health regulations.
4. If my job duties change, I may need to route a new request.
5. If I PCS while my waiver is in effect, I may need to route a new request if my job duties change, my geographic region exposes me to the aforementioned disease, or other factors exist that could put me at imminent risk of disease.

(b) (6)

Service Member's Signature

(b) (6)

Witnessed:

SEP 21

ENTERED AND VERIFIED IN ELECTRONIC SERVICE RECORD:

VERIFYING OFFICIAL RANK OR GRADE/TITLE:

DATE:

SIGNATURE OF VERIFYING OFFICIAL:

NAME (LAST, FIRST, MIDDLE):

Crabb, Aaron, W

SOCIAL SECURITY NUMBER:

(b) (6)

BRANCH AND CLASS:

USN

FOR OFFICIAL USE ONLY
PRIVACY SENSITIVE

Enclosure (2)

ADMINISTRATIVE REMARKS

NAVPERS 1070/613 (REV. 08-2012) PREVIOUS EDITIONS ARE OBSOLETE

SUPPORTING DIRECTIVE MILPERSMAN 1070-320

SHIP OR STATION:

Carrier Strike Group ONE

SUBJECT:

COVID-19 Vaccination Administrative Counseling/Warning

☒ PERMANENT☐ TEMPORARY

AUTHORITY (IF PERMANENT):

BUMEDINST 6230.15B, ALNAV 062/21, and NAVADMIN 190/21

1. On 31 August 2021, all U.S. service members were mandated to be vaccinated against COVID-19. Your current medical records indicate that you have not been vaccinated against COVID-19 using an FDA-approved vaccine.

2. The following information is provided for your consideration:

- a. Your health and safety are the Navy's number one concern.
- b. The COVID-19 vaccines are safe and effective.
- c. The threat from COVID-19 is deadly and real.
- d. Vaccination offers a layer of protection in addition to other measures.
- e. Healthcare providers are available to discuss your objections/concerns with the COVID-19 vaccines.
- f. DoD will administer COVID-19 vaccinations consistent with FDA approved dosing schedules and current standards of medical practice.
- g. Administration of the COVID-19 vaccine is in the interest of national security and protection of the force. Receiving the vaccine helps protect your family and dependents as well as fellow Sailors and Marines and associated DoD civilians.
- h. Unless medically or administratively exempt, any refusal to be vaccinated may constitute a Failure to Obey a Lawful Order and may be punishable under the Uniform Code of Military Justice (UCMJ) and/or administrative action for Failure to Obey a Lawful Order (UCMJ, Article 92).

3. The following corrective action is required:

[Within XX days] of this administrative counseling, you will complete receipt of the COVID-19 vaccination using an FDA approved vaccine. Of note, the Pfizer vaccine is a two-shot series and requires a 21-day delay between doses. Proof of vaccination is required and must be entered into your medical record.

4. Member must initial all that apply below:

☒ I acknowledge the above counseling/warning and understand its contents.

☒ I have been informed of my right to submit a statement in response to this counseling/warning (initial one below).

☒ I intend to submit a statement. I will submit my statement within 10 days of this date.

☐ I do not intend to submit a statement.

☒ I intend to seek an exemption as indicated in para. 2h above. My exemption request will be submitted within 10 days of this date.

(b) (6)

Member's Signature Date/Signed

2 SEP 21

Commanding Officer

(b) (6)

Witness Signature Date/Signed

07 SEP 21

ENTERED AND VERIFIED IN ELECTRONIC SERVICE RECORD:

VERIFYING OFFICIAL RANK OR GRADE/TITLE:

DATE:

SIGNATURE OF VERIFYING OFFICIAL:

NAME (LAST, FIRST, MIDDLE):

CRABB, Aaron, W

SOCIAL SECURITY NUMBER:

(b) (6)

BRANCH AND CLASS:

USN

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PRIVACY SENSITIVE

06 SEP 21

CHAPLAIN MEMORANDUM FOR THE RECORD

From: LCDR William E. Newsome, CHC, USN, Command Chaplain, Carrier Air Wing TWO
To: CDR Thomas Murray, USN, Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: REQUEST FOR INTERVIEW OF RELIGIOUS SINCERITY REGARDING
DECLINATION OF COVID-19 VACCINE – AWS1 CRABB, AARON

Ref: (a) SECNAVINST 1730.8B change 1
(b) SECNAVINST 1730.9A
(c) BUPERSINT 1730.11A

1. AWS1 Crabb, Aaron has submitted a request for accommodation of a religious practice per reference (a). Per BUPERSINT 1730.11A, I interviewed the requestor on 3 SEPT 2021. I explained that this interview would not be a confidential communication as defined by reference (b) and informed the requestor that referral for confidential chaplain support was available via USS Carl Vinson (CVN 70) chaplains.

2. Nature of the request. Member is requesting a religious exemption from the COVID-19 vaccine.

3. Basis. Member is opposed to receiving all vaccines for Covid-19 to include Pfizer, Moderna and Johnson and Johnson vaccines based on their use of tissues derived from aborted fetuses. Additionally, he is opposed to any Military mandated vaccine based on his biblical interpretation of the sacred nature of his body.

4. Sincerity. Member is active in Word of Life Community Church in San Diego, CA. He experienced a spiritual understanding six years ago that has made him take his spiritual walk more seriously with his family. He has not previously opposed vaccines but upon reading how the COVID-19 vaccines were deployed, he does not want to receive the COVID-19 vaccine based on his religious beliefs.

5. My contact information is J-Dial 5255 and (b) (6) CVW2.navy.mil.

(b) (6)
(b) (6)

W. E. NEWSOME

Copy to:
CAPT Tommy Locke
AWS1 Aaron Crabb

Enclosure (3)

16 Mar 2020

CHAPLAIN INTERVIEW CHECKLIST TEMPLATE

Requestor: <i>Amron Lrabb</i>			Interview Date: <i>9.3.21</i>		
Name:			Chaplain Interviewer: <i>Newman</i>		
Phone: <i>J-Dial 2590</i>			Phone: <i>5255</i>		
Email: <i>(b) (6) @ CVW2 navy.mil</i>			E-mail: <i>(b) (6) @ CVW2 navy.mil</i>		
Command: <i>HSC-4</i>			Chaplain's Command: <i>CVW-2</i>		
Interview Preliminaries					
Yes	No	N/A			
<input checked="" type="checkbox"/>			Chaplain reviewed policy and doctrine on religious accommodation and the policy for which the requestor is seeking accommodation.		
<input checked="" type="checkbox"/>			Applicant was notified that the interview is not confidential and will be used to advise the command.		
<input checked="" type="checkbox"/>			Chaplain explained to the applicant that confidential support can be received from another chaplain.		
	<input checked="" type="checkbox"/>		Applicant has been granted a waiver for this practice previously.		
		<input checked="" type="checkbox"/>	Applicant's Page 2 (NAVPERS 1070/602) reflects the belief cited in the application.		
Type of Waiver Requested					
Yes	No	N/A			
	<input checked="" type="checkbox"/>		Uniform standards		
	<input checked="" type="checkbox"/>		Grooming standards		
<input checked="" type="checkbox"/>			Immunization requirements		
	<input checked="" type="checkbox"/>		DNA sampling		
		<input checked="" type="checkbox"/>	Other (Please describe):		
Interview					
Yes	No	N/A			
		<input checked="" type="checkbox"/>	Requestor's religious beliefs seemed honestly and sincerely held using one or more of the following factors:		
<input checked="" type="checkbox"/>			1. Requestor was credible (consistently keeps tenets, practices, etc.).		
<input checked="" type="checkbox"/>			2. Requestor's demeanor and pattern of conduct are consistent with the request.		
<input checked="" type="checkbox"/>			3. Requestor participates in activities associated with the belief(s).		
		<input checked="" type="checkbox"/>	4. Other persons supporting the claim are credible.		
		<input checked="" type="checkbox"/>	5. Request is supported by letter(s) of verification or endorsement from an organization espousing the beliefs which are the basis for the claim.		
		<input checked="" type="checkbox"/>	Alternate means of accommodating the practice were explored in the interview.		
Process Checklist					
Yes	No	N/A			
<input checked="" type="checkbox"/>			Chaplain has prepared a memorandum documenting the interview.		
<input checked="" type="checkbox"/>			Chaplain reviewed memorandum with applicant and provided a copy.		
<input checked="" type="checkbox"/>			Chaplain submitted the memorandum and this document to the commanding officer via chain of command.		
<input checked="" type="checkbox"/>			Chaplain referred applicant to command to process request.		

Enclosure (3)

DATE: 03Sep2021

Subj: MEMORANDUM FOR ADMINISTRATIVE RELIGIOUS ACCOMODATION
REFERENCES

Ref: (a) BUMEDINST 6230.15B – Immunizations and Chemoprophylaxis of Infectious
Disease
(b) MANMED Change 141 – Manual of the Medical Department

“2.6.b.3.a.2. – A military physician must physician must counsel the applicant. The physician must ensure that the Service member is making an informed decision and should address, at a minimum specific information about the diseases concerned; specific vaccine information including product constituents, benefits, and risks; and potential risks of infection incurred by unimmunized individuals.”

I, (b) (6) MD, MPH, certify that I have counseled CRABB, AARON W on:

-Specific information about the diseases concerned (All vaccinations, regardless of status as required or optional as directed by BUMEDINST 6230.15B).

-COVID-19 vaccine information including constituents, benefits, and risks

-Potential risks of infection incurred by unimmunized individuals and I verify that CRABB, AARON W is aware of the benefits and risks of vaccination, and that he is making an informed decision with regard to the COVID-19 vaccine.

(b) (6) (initial) CRABB, AARON W. This counseling does not guarantee that your religious accommodation waiver will be accepted or denied, but merely certifies your awareness of the above topics.

(b) (6)

MD
LT, MC(FS), USN
CVW-2 Flight Surgeon

03 Sep 2021

August 15, 2021

MEMORANDUM FOR RECORD

SUBJECT: Pastor Verification Letter for Aaron W. Crabb

To whom it may concern, I understand that Aaron W. Crabb has submitted a religious accommodation request from the COVID vaccine directive. As his pastor, I can speak to the sincerity of his faith and his request. Aaron W. Crabb told me that after the directive to accept the COVID vaccine came out, he started searching the Scriptures as to how he should respond, and if he should accept the shot.

Aaron W. Crabb is a Christian, and believes the Bible to be the inspired, inerrant, holy, living Word of God as God's word states in II Timothy 3:16. Our Lord teaches a sanctification of our body. God tells us that we are a new creature in Him in II Corinthians 5:17. As a new creature in the Lord our pledge to the Lord is to live in His image and be Christ like without blemish and without spot as we are commanded in Romans 8:29, I Corinthians 15:49, II Corinthians 3:18, Colossians 1:15, Colossians 3:10, and Hebrews 1:3. When Jesus Christ went back to heaven after He was resurrected, He promised to send his Holy Spirit, who would guide us into all truth as told in John 14:16 & 26, 15:26, and John 16:7. Our church teaches that each believer in Christ receives the Holy Spirit, who directly leads the individual in his walk with God, as the believers seeks wisdom through prayer and Scripture reading as the Lord teaches in John 5:39, Acts 17:11, Romans 15:4, Romans 16:26, and II Timothy 3:15. Our church teaches that believers should follow their conscience, as informed by the written word of God, and the leading of his Holy Spirit. Our church teaches the Biblical sanctity of human life, and the Biblical interdiction against abortion as the shedding of innocent blood. This is described in Proverbs 19:23. Christians understand this interdiction to include ingesting or benefiting from products derived from or using aborted fetal cell lines.

Aaron W. Crabb has told me that based on his review of Centers for Disease Control (CDC) guidance and position statements, and understanding of the issues, and much prayer that he might discern truth from error, and whether he should get the shot, the Holy Spirit is not allowing him to accept the COVID shot. He believes that if he were to do so, he would be sinning against our living God in defiling his body and not keeping his Godly temple pure. Our church supports him as he follows the leading of the Holy Spirit and supports his request for a religious accomodation.

Pastor, (b) (6)

(b) (6)



DEPARTMENT OF THE NAVY
HELICOPTER SEA COMBAT SQUADRON FOUR
PO BOX 357101
SAN DIEGO CA 92135-7101

1000
Ser 00/282
18 Dec 21

From: Commanding Officer, Helicopter Sea Combat Squadron FOUR
To: Chief of Naval Operations
Via: Commander, Carrier Air Wing TWO

Subj: APPEAL OF DENIAL FOR WAIVER OF POLICY TO ACCOMMODATE RELIGIOUS PRACTICE

Ref: (a) DoD Instruction 1300.17
(b) SECNAVINST 1730.8
(c) BUPERSINST 1730.11
(d) BUMEDINST 6230.15B
(e) MILPERSMAN 1730-020
(f) Secretary of Defense Memo of 24 Aug 2021, "Mandatory Coronavirus Disease Vaccination of Department of Defense Service Members"
(g) NAVADMIN 110/21
(h) COMPAFLT GENADMIN OF CONSOLIDATED CPF COVID-19 GUIDANCE 4.2

Encl: (1) Member's Appeal
(2) HELSEACOMBATRONFOUR Ltr 1000 Ser 00/184 of 10 Sep 21
(3) AWS1 Aaron Crabb 1070/613 of 7 Dec 21

1. Per references (a) through (h), I have reviewed the subject request submitted to me on 12 December 2021.

2. I recommend denial of Petty Officer Crabb's request for appeal to accommodate religious practice. Enclosure (1) contains my endorsement recommending denial of Petty Officer Crabb's initial request for religious accommodation. The service member has not offered any new information that substantively changes my view of his original request for religious accommodation.

3. I can be reached at thomas.j.murray@cvw2.navy.mil should you have any questions.


T. J. MURRAY

Copy to:
AWS1 Crabb



DEPARTMENT OF THE NAVY
COMMANDER CARRIER AIR WING TWO
30 SKYTRAIN AVE UNIT TWO
LEMOORE CA 93246-6005

1000
Ser N00/311
23 Dec 21

FIRST ENDORSEMENT on CO, HSC-4 ltr 1000 Ser 00/282 of 18 Dec 21

From: Commander, Carrier Air Wing TWO
To: Chief of Naval Personnel

Subj: APPEAL OF DENIAL FOR WAIVER OF POLICY TO ACCOMMODATION
RELIGIOUS PRACTICE

1. I have reviewed the subject request submitted to me on 21 December 2021. I concur with HSC-4's endorsement and recommend disapproval of AWSI Crabb's request.
2. The Commanding Officer's endorsement and justification meet all requirements of governing instructions. As the Commanding Officer states, enforcing Department of Defense policy on mandatory COVID-19 vaccination is critical to reducing community transmission of COVID-19 while maintaining mission assurance.



T. F. LOCKE

Copy to:
HSC-4
CSG-1
CHSCWP

12DEC21

From: AWS1, Crabb Aaron, W., USN, Helicopter Sea Combat Squadron FOUR
To: Chief of Naval Operations, CNO
Via: Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: APPEAL OF REQUEST FOR RELIGIOUS ACCOMMODATION IN SUPPORT OF
SINCERE RELIGIOUS BELIEFS

Ref: (a) DoD Instruction 1300.17 of 1 September 2020
(b) 42 U.S. Code § 2000bb-1
(c) BUPERINST 1730.11A
(d) BUPERINST 6230.15B
(e) MILPERSMAN 1730-020
(f) Frazee v Illinois Department of Employment Security 829
(g) OPNAVINST 5354.1G

Encl: (1) AWS1 CRABB RELIGIOUS ACCOMMODATION Determination through waiver
of immunization requirement
(2) Accomplishments Letter dtd 12DEC21
(3) Evaluation
(4) Freedom of Information Act to CDC reply dtd 5NOV21
(5) Memorandum for Record From Pastor dtd 15AUG21

1. I, AWS1 Aaron W. Crabb, am submitting an appeal to the decision Encl (1) received on 02DEC21 to the next higher authority IAW Ref. (a), and (c).

2. My unimmunized for SARS CoV-2 status has not had an impact on military readiness or good order and discipline. I am currently on month six of an eight month deployment on board the USS Carl Vinson. During this time, I have performed my duties as evidenced by 245 flight hours, which were not limited to direct interaction with the flight crew, passengers for flight transport including foreign nationals, and two SEAL teams for live troop work. I recently checked into the HSC-4 command and received a reporting evaluation covering the last six months with a Recommended for Retention and ranking 10 out of 26 first class petty officers. Granting this request for exemption, would not impact military readiness or good order and discipline as it has not done so since this pandemic began.

3. My unimmunized for SARS CoV-2 state has not had an impact on health and safety on both individual and unit levels. Before this deployment, I did a two week ROM sequester. I tested in and out of ROM with a negative SARS CoV-2 test, as did the other 75 sailors that completed this with me. I then boarded the ship on July 2, 2021.

During this deployment, there have been 2 port visits to Coronado, CA and a port visit to Japan, where immunized for SARS CoV-2 sailors had liberty and the unimmunized for SARS CoV-2 were restricted to the ship. During these instances, CoV-2 testing began once underway. It was stopped within three days because there were too many positive CoV-2 test results for immunized for SARS CoV-2 sailors. Most recently, our ship had a goal to visit Australia. Per

Enclosure (1)

their governmental guidelines, our sailors had to submit to random testing with a negative result on all tests to be allowed a port call. Due to positive tests from the first group of our fully immunized sailors, this mission was reconsidered and canceled. This proves that sailors continue to transmit and contract SARS CoV-2 despite immunizations for SARS CoV-2.

Also, due to previous infection from SARS CoV-2, I have protective natural antibodies post-infection that are sustained longer than that of the vaccine (Comparing SARS-CoV-2 natural Immunity to Vaccine-Induced Immunity: reinfections versus breakthrough Infections 24 August 2021) This study of 778,658 individuals demonstrated that natural immunity confers longer lasting and stronger protection against infection, symptomatic disease, and hospitalization caused by the Delta variant of SARS-CoV-2, compared to the BNT162b2 two-dose vaccine-induced immunity. This study also showed natural immunity is 27 times more effective than vaccinated immunity and supports the hundred plus studies that have come to the same conclusion, including the most recent Qatar Study (Severity of SARS-CoV-2 Reinfections as Compared with Primary Infections, 24 November 2021.) This natural immunity falls within the medical exemption code of Medical, Immune according to Ref. (d).

Immunity due to natural infection is the gold standard in medicine and in the Armed Forces. Disallowing for immunity from natural infection for SARS CoV-2 is a deviation from all current guidance related to all other immunizations. Ref. (d) states that sailors are to be screened for preexisting immunity before injection. In Encl (4), the Center for Disease Control and Prevention Agency confirm that no documents exist that: "Documents reflecting any documented case of an individual who (1) never received a Covid-19 vaccine, (2) was infected with Covid-19 once, recovered, and then later became infected again; and (3) transmitted SARS CoV-2 to another person when reinfected." Therefore, granting this religious exemption would not impact the health and safety of the individual or the unit according to Ref. (e).

4. Granting this religious request is of utmost importance. Ref. (a) and (b), the Religious Freedom Restoration Act (RFRA) states that, "Government shall not substantially burden a person's exercise of religion," with the exception that "Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." For this Sherbert Test to apply, the government has the burden of proving that this order to receive the SARS CoV-2 immunization is more compelling than my religious freedom. According to Ref. (f) previous case law, the government cannot judge whether my beliefs are "mistaken or insubstantial," and they cannot determine the plausibility of my religious claim. This sentiment was also confirmed in a leaked audio call between DOJ lawyer Marty Lederman and the White House in September 2021. This lawyer is speaking about the case *Dr. A, et al, v Kathy Hochul, Governor of the State of New York et al*. He summarizes that the plaintiffs are a group of doctors and nurses that are refusing the vaccines because it either contains or was tested using fetal cell lines and that by taking any part "makes them cooperative with an evil in a way that their religion prohibits." In response he acknowledges, "I don't want to say anything too categorical, but I believe that this claim will be very difficult for agencies to successfully claim that's either insincere or not religious, even if it is. Even if we know that many of those claims are not sincere, or are sincere but not religions, this is the most common behavior you're going to confront probably, and it's likely that you will

have to take as a given the employee's claim."

Ref. (c), states "Religious liberty is more than freedom to worship. It includes the freedom to integrate one's religion into every aspect of one's life." I have had a relationship with the Lord Jesus Christ since I was seventeen years old. At that time, I believed that I was a sinner and that there was no way that I could pay for my sins on my own. I knew that the penalty of sin is death. That day I put my faith and trust in Jesus that He died on the cross in payment for my sin and that He rose from the dead three days later and He now lives in the form of the Holy Spirit in the hearts of all who believe this. Even as a baby grows, so I grew in my faith in Jesus. I was and am determined to obey His guidance from His Word, the Bible, and the Holy Spirit.

In the same way that it is against God's law to shoplift (steal) or to look at a woman to lust for her (adultery) or to say something that is untrue (lying), the same is true that I may have no part in taking these CoV-2 vaccines (abortion=murder). In the New Testament, by Jesus' own words, it isn't enough that I do not do the physical act of wrong, like murdering. If I even think these things in my heart, God will hold me accountable for sin. Jesus wants me to have a clean and pure thought life as well. I am not perfect in all things, but Jesus says that if I confess my sins, He is faithful, and just to forgive my sins and to cleanse me from all unrighteousness (1 John 1:9) This does not give me license to sin on purpose, knowing that I will be forgiven. "What shall we say then? Shall we continue in sin, that grace may abound? God forbid." Romans 6: 1-2a

Refusal of this request for accommodation is akin to religious persecution and it is in direct violation of my First Amendment rights. This request does not endanger me or others and it has shown to have no effect on mission readiness or good order and discipline. Why am I being asked to choose between fidelity to my religious beliefs and the continuance of my employment? Furthermore, failure to accommodate is not observing the Navy Equal Opportunity Program, Ref. (g). DON policy prohibits harassment and unlawful discrimination against persons or groups based on race, color, religion, sex (including gender identity), national origin, or sexual orientation. This includes abiding by the Navy's core values and the sailor's creed "Committed to excellence and the fair treatment of all." How could the Navy do anything else except to accommodate this request?

5. The goal of this order could be achieved in an alternative way that would not violate my religious freedom. This goal is already being achieved. I have submitted to a pre-deployment ROM sequester, quarantine at home, testing, masking, and distancing. I am currently being tested weekly to continue to abide by the guidance set forth for unimmunized for SARS CoV-2 sailors.

6. Another consideration for granting this request is determining what the cumulative impact would be to repeatedly granting similar requests. It would be in the Navy's best interest and worth to accommodate and provide retention. I am 1 of 16,643 active duty that have a pending request for accommodation within the Department of Defense. The disapproval of this request and those like mine would create an exodus of irreplaceable talent from the military community. The consequences will cause grave concerns and self-inflicted damage to our military readiness. It will also affect future military readiness by creating a culture known to disregard religious

freedom and in turn be a detriment to recruiting people of faith. This is in direct contradiction to the Department of Defense's goal for inclusivity and diverseness.

It would cost millions of taxpayer training dollars to replace separated service members. For example, in order to become a fully qualified Naval Aircrewman, you must go through five different schools over two years (one school with an attrition rate of 60%), and two years of initial qualification training and flight hours. The worth of accommodation is incalculable and would retain personnel with years and thousands of flight hours of peak professional experience, high level clearance, and subject matter expertise that simply cannot be backfilled overnight.

7. I am currently in my sixteenth year of service, and I have faithfully served my country and Commander in Chief during this time. It is my desire and intention to continue serving as I always have. Additionally, I am willing to pursue transfer to a location that according to the military classification is least impactful to mission accomplishment, good order, discipline, morale, unit cohesion, health, and safety for the remainder of my service contract.

If despite this reasonable and genuine appeal, the Navy still sees fit to not accommodate my deep conviction in this matter, I ask to be forthwith honorably separated from the Navy.

(b) (6)

A.W. Crabb



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser N1/116417
2 Dec 21

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)
To: AWS1 Aaron W. Crabb, USN
Via: Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF IMMUNIZATION REQUIREMENTS

Ref: (a) 42 U.S.C. §2000bb-1
(b) DoD Instruction 1300.17 of 1 September 2020
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) MILPERSMAN 1730-020
(f) United States Attorney General memo of 6 Oct 17
(g) Your ltr of 7 Sep 21 w/ends
(h) BUMED ltr 6320 Ser M44/21UM42751 of 22 Nov 21

1. Pursuant to references (a) through (h), your request for religious accommodation through waiver of immunization requirements is disapproved. You must receive all required vaccines. However, you are free to request from your healthcare provider alternative vaccines that are available and meet the Navy's immunization requirements, as determined by a credentialed military healthcare provider. You are free to choose which COVID-19 vaccine to take. If you choose a COVID-19 vaccine that requires two doses, you must receive your first dose within five calendar (5) days upon receipt of this letter and complete the series as prescribed. If you choose a one-dose vaccine you must receive the vaccine within five calendar (5) days upon receipt of this letter.

2. In line with references (b) through (d), I am designated as the approval authority for requests for religious accommodation.

3. Reference (a), the Religious Freedom Restoration Act (RFRA), states that the Government may substantially burden an individual's exercise of religion only if it demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Reference (b) incorporates the RFRA and notes that the Government has a compelling interest in mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels. Additionally, unless it will have an adverse impact on mission accomplishment, including military readiness, unit cohesion and good order and discipline, the Navy will accommodate individual expressions of sincerely held beliefs of Sailors. Reference (f) emphasizes that only those interests of the highest order can overbalance legitimate claims to the free exercise of religion.

Encl(1)

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS

4. All requests for accommodation of religious practices are assessed on a case-by-case basis. In line with references (b) and (c), determination of a request for religious accommodation requires consideration of the following factors:

- a. Impact on military readiness, unit cohesion, good order and discipline, health and safety
- b. Religious importance of the request
- c. Cumulative impact of repeatedly granting similar requests
- d. Whether there are alternatives available to meet the requested accommodation and
- e. How other such requests have been treated

5. In making this decision, I reviewed reference (g), including the endorsements from your chain of command, the local chaplain and the advice of Chief, Bureau of Medicine and Surgery in reference (h).

a. A waiver of immunizations would have a predictable and detrimental effect on your readiness and the readiness of the Sailors who serve alongside you in both operational and non-operational (including training) environments. Primary prevention of disease through immunizations has been a key enabler for maintaining force health and avoiding disease-related non-battle injury. Granting your request will have a direct and foreseeable negative impact on the compelling Government interests of military readiness and health of the force.

b. While serving in the U.S. Navy, you will inevitably be expected to live and work in close proximity with your shipmates. I find that disapproval of your request for a waiver of immunization requirements is the least restrictive means available to preserve the Department of Defense's compelling interest in military readiness, mission accomplishment and the health and safety of military Service Members.

6. The Navy is a specialized community governed by a discipline separate from that of the rest of society. While every Sailor is welcome to express a religion of choice or none at all, our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.

(b) (6)

JOHN B. NOWELL, JR

Copy to:
OPNAV (N131, N0975)
BUMED
CVW-2

12 December 2021

AWS1, Crabb Aaron, W., USN, Helicopter Sea Combat Squadron FOUR

Accomplishments and Contributions to Mission Readiness at HSC-4 beginning 01 April 2021

- Flight Hour Accomplishments
 - May - 17.2
 - July – 82.4
 - August – 25
 - September – 40.1
 - October – 30.8
 - November – 39.5
 - December 10.6
- SAR Jumps
 - Requalification in March
 - Primary hoist operator for SAR Jump training in October for twelve Aviation Rescue Swimmers and three CVN-70 Surface Rescue Swimmers
- Vertical replenishment
 - Ordnance onload of 78 loads in support of USS Carl Vinson 2021 Deployment
 - 65 loads of Food and Mail
- Gun Shoot requalification in May/August/September/November
- Passenger Transportation
 - Move of six personnel in July between two ships
 - Move of five personnel in August between two ships
 - Move of four personnel in September between two ships
 - Move of four personnel in November to and from a Japanese Carrier
 - Move of one person to a Canadian Ship
- Terrain Flight Landing currency
 - July - Naval Air Station North Island/Otay Landing Zone
 - August – El Centro area
 - September – Kadena, Japan
 - November – Guam, USA
- Live Troop work
 - Seal Team 1 initial qualification deployment training for 60 personnel
 - Seal Team 7 annual currency Paradrop training on Guam for 30 personnel

Encl(2)

EVALUATION REPORT & COUNSELING RECORD (E1-E6)

RCS BUPERS 1610-1

1. Name (Last, First MI Suffix) CRABB, AARON W				2. Rate AWS1		3. Desig NAC/AW		4. SSN 000-00-0000	
5. ACT <input checked="" type="checkbox"/> FTS <input type="checkbox"/> INACT <input type="checkbox"/> AT/ADSW/ <input type="checkbox"/> 263		6. UIC 09164		7. Ship/Station HSC-4		8. Promotion Status REGULAR		9. Date Reported 21APR30	
Occasion for Report 10. Periodic <input checked="" type="checkbox"/> 11. of Individual <input type="checkbox"/> 12. Frocking <input type="checkbox"/> 13. Special <input type="checkbox"/>				Period of Report 14. From 21MAR31 15. To 21NOV15					
16. Not Observed Report <input type="checkbox"/>		Type of Report 17. Regular <input checked="" type="checkbox"/> 18. Concurrent <input type="checkbox"/>		20. Physical Readiness B		21. Billet Subcategory (if any) NA			
(b) (6)		23. Grade CDR		24. Desig 1310		25. Title CO		26. UIC 09164	
						27. SSN 000-00-0001			
28. Command employment and command achievements. Provide combat ready aircraft and combat ready crews in support of warfare commander tasking across a full spectrum of military operations. DETACHED: AWF-1, SUMMEREX-1, COMPTUEX-1, WESTPAC-4.									
29. Primary/Collateral/Watchstanding duties. (Enter primary duty abbreviation in box.) TRAINING LPO PRI: Training LPO-7. Led 7 sailors in the management of 31 Aircrewmen utility and ground training syllabi. COLL: ACTC LVL III-7; Rescue Swimmer-7; AG-7; FCPOA EC-7; CMD Lay Leader-7; UTR POC-7; CMD Security MNGR-7. WATCH: ASDO-7, Duty Driver-7, Ready Duty SAR-7. TEMADD/LV: 21MAR31-21APR30. PFA: CY-21.									
For Mid-term Counseling Use: (When completing EVAL, enter 30 and 31 from counseling worksheet and sign 32.)				30. Date Counseled NOT PERF		31. Counselor		32. Signature of Individual Counseled	
PERFORMANCE TRAITS 1.0 - Below standards/not progressing or UNSAT in any one standard; 2.0 - Does not yet meet all 3.0 standards; 3.0 - Meets all 3.0 standards; 4.0 - Exceeds most 3.0 standards; 5.0 - Meets overall criteria and most of the specific standards for 5.0. Standards are not all inclusive.									
PERFORMANCE TRAITS	1.0* Below Standards	2.0 Pro- gressing	3.0 Meets Standards	4.0 Above Standards	5.0 Greatly Exceeds Standards				
33. PROFESSIONAL KNOWLEDGE Technical knowledge and practical application. NOB <input type="checkbox"/>	-Marginal knowledge of rating, specialty or job. -Unable to apply knowledge to solve routine problems. -Fails to meet advancement/PQS requirements	-	-Strong working knowledge of rating, specialty and job. -Reliably applies knowledge to accomplish tasks. -Meets advancement/PQS requirements on time.	-	-Recognized expert, sought out by all for technical knowledge. -Uses knowledge to solve complex technical problems. -Meets advancement/PQS requirements early/with distinction.				
34. QUALITY OF WORK Standard of work, value of end product. NOB <input type="checkbox"/>	-Needs excessive supervision. -Product frequently needs rework. -Wasteful of resources.	-	-Needs little supervision. -Produces quality work. Few errors and resulting rework. -Uses resources efficiently.	-	-Needs no supervision. -Always produces exceptional work. No rework required. -Maximizes resources.				
35. COMMAND OR ORGANIZATIONAL CLIMATE/EQUAL OPPORTUNITY Contributing to growth and development, human worth, community. NOB <input type="checkbox"/>	-Actions counter to Navy's retention/reenlistment goals. -Uninvolved with mentoring or professional development of subordinates. -Actions counter to good order and discipline and negatively affect Command/Organizational climate. -Demonstrates exclusionary behavior. Fails to value differences from cultural diversity.	-	-Positive leadership supports Navy's increased retention goals. Active in decreasing attrition. -Actions adequately encourage/support subordinates' personal/professional growth. -Demonstrates appreciation for contributions of Navy personnel. Positive influence on Command climate. -Values differences as strengths. Fosters atmosphere of acceptance/inclusion per EO/EEO policy.	-	-Measurably contributes to Navy's increased retention and reduced attrition objectives. -Proactive leader/exemplary mentor. Involved in subordinates' personal development leading to professional growth/sustained commitment. -Initiates support programs for military, civilian, and families to achieve exceptional Command and Organizational climate. -The model of achievement. Develops unit cohesion by valuing differences as strengths.				
36. MILITARY BEARING CHARACTER Appearance, conduct, physical fitness, adherence to Navy Core Values. NOB <input type="checkbox"/>	-Consistently unsatisfactory appearance. -Poor self-control; conduct resulting in disciplinary action. -Unable to meet one or more physical readiness standards. -Fails to live up to one or more Navy Core Values: HONOR, COURAGE, COMMITMENT.	-	-Excellent personal appearance. -Excellent conduct conscientiously complies with regulations. -Complies with physical readiness program. -Always lives up to Navy Core Values: HONOR, COURAGE, COMMITMENT.	-	-Exemplary personal appearance. -Model of conduct, on and off duty. -A leader in physical readiness. -Exemplifies Navy Core Values: HONOR, COURAGE, COMMITMENT.				
37. PERSONAL JOB ACCOMPLISHMENT INITIATIVE Responsibility, quantity of work. NOB <input type="checkbox"/>	-Needs prodding to attain qualification or finish job. -Prioritizes poorly. -Avoids responsibility.	-	-Productive and motivated. Completes tasks and qualifications fully and on time. -Plans/prioritizes effectively. -Reliable, dependable, willingly accepts responsibility.	-	-Energetic self-starter. Completes tasks or qualifications early, far better than expected. -Plans/prioritizes wisely and with exceptional foresight. -Seeks extra responsibility and takes on the hardest jobs.				

EVALUATION REPORT & COUNSELING RECORD (E1-E6) (cont'd)

RCS BUPERS 1610-1

1 Name (Last, First MI Suffix) CRABB, AARON W		2 Rate AWS1		3 Desig NAC / AW		4 SSN 0000-0000-0000	
PERFORMANCE TRAITS		10* Below Standards	20 Progressing	30 Meets Standards	40 Above Standards	50 Greatly Exceeds Standards	
38. TEAMWORK: Contributions to team building and team results. NOB <input type="checkbox"/>		- Creates conflict, unwilling to work with others, puts self above team. - Fails to understand team goals or teamwork techniques. - Does not take direction well.	-	- Reinforces others' efforts, meets commitments to team. - Understands goals, employs good teamwork techniques. - Accepts and offers team direction.	-	- Team builder, inspires cooperation and progress. - Focuses goals and techniques for teams. - The best at accepting and offering team direction.	
39. LEADERSHIP: Organizing, motivating and developing others to accomplish goals. NOB <input type="checkbox"/>		- Neglects growth/development or welfare of subordinates. - Fails to organize, creates problems for subordinates. - Does not set or achieve goals relevant to command mission and vision. - Lacks ability to cope with or tolerate stress. - Inadequate communicator. - Tolerates hazards or unsafe practices.	-	- Effectively stimulates growth/development in subordinates. - Organizes successfully, implementing process improvements and efficiencies. - Sets/achieves useful, realistic goals that support command mission. - Performs well in stressful situations. - Clear, timely communicator. - Ensures safety of personnel and equipment.	-	- Inspiring motivator and trainer, subordinates reach highest level of growth and development. - Superb organizer, great foresight, develops process improvements and efficiencies. - Leadership achievements dramatically further command mission and vision. - Perseveres through the toughest challenges and inspires others. - Exceptional communicator. - Makes subordinates safety-conscious, maintains top safety record. - Constantly improves the personal and professional lives of others.	
40. Individual Trait Avg. Total of trait scores divided by number of graded traits. 3.00		41. I recommend this individual for (maximum of two). Assignment in Rating, Sea Special Programs, Shore Special Programs, Commissioning Programs, Special Warfare Programs, Rating Instructor Duty, Other (Be specific) CPO		42. Signature of Ratee (Typed Name & Rate) I have evaluated this member against the above performance standards and have forwarded written explanation of marks 10 and 10 (b) (6)		Date: AWSC (NAC/AW)	
43. COMMENTS ON PERFORMANCE: * AW 10 marks, three 20 marks, and 20 marks in Block 35 must be specifically substantiated in comments. Comments must be verifiable. Font must be 10 or 12 Pitch (10 or 12 point) only. Use upper and lower case. Energetic and highly motivated leader, a "hot runner" with proven quality performance. - EXCEPTIONAL LEADER. Led seven personnel in ground training, board scheduling and syllabus progression tracking for 31 aircrewmen. His leadership culminated in ACTC and Utility syllabus progression with 73 qualifications and 12 ACTC upgrades, resulting in a 75% increase in readiness, meeting DRRS-N requirements for workups and deployment. - INDUSTRIOUS COMMITMENT. Requalified ACTC LVL III and Aerial Gunner. Revised the divisional mentorship program resulting in two Sailor of the Week awards. - CIVIC MINDED. As the ECPOA Events Coordinator, led the coordination and successful support of 11 Sailors over 21 hours at Support The Enlisted Project, sorting clothing and food items, donating to enlisted Sailors and Marines in the greater San Diego area. Devoted 12 hours of off duty time during an international port visit to Yokosuka, Japan, serving food to 5,000 CVN-70 Sailors, increasing MWR funds by \$3,500. Volunteered 11 hours during 15 United Through Reading sessions, supporting shipmates by easing the stress of family separation, encouraging literacy and bridging the distance of families for 15 Sailors. PSG RSCA: 3.82 A HIGH ACHIEVER, ALWAYS ATTAINS DESIRED RESULTS. RECOMMENDED FOR ADVANCEMENT TO CPO!							
44. QUALIFICATIONS/ACHIEVEMENTS - Education, awards, community involvement, etc., during this period. QUALS: EAWS MH60S, Small Arms Line Coach, SERE-245, Shipboard Barber. COMM: STEP (21 hours), ECPOA Yokosuka (12 hours), CVN-70 ECPOA Events (33 hours).							
Promotion Recommendation	NOB	Significant Problems	Progressing	Promotable	Must Promote	Early Promote	47. Retention Not Recommended <input type="checkbox"/> Recommended <input checked="" type="checkbox"/>
45. INDIVIDUAL				X			48. Reporting Senior Address COMMANDING OFFICER HELSEACOMBATRON FOUR PO BOX 357101 SAN DIEGO CA 92135-7101
46. SUMMARY	X	0	0	11	11	6	
49. Signature of Senior Ratee (Typed Name & Grade/Rate). I have reviewed the evaluation of this member against these performance standards and have provided written explanation to support the marks of 10 and 50. (b) (6) LCDR					50. Signature of Reporting Senior (b) (6)		
Date:					Date: 17 NOV 21		
51. Signature of Individual Evaluated "I have seen this report, been apprised of my performance, and understand my right to submit a statement." I intend to submit a statement. <input type="checkbox"/> I do not intend to submit a statement. <input type="checkbox"/> Date:					Summary Group Average: 3.71		
52. Type name, grade, command, UIC, and signature of Regular Reporting Senior on Concurrent Report Date:							



November 05, 2021

SENT VIA EMAIL

(b) (6)

2nd Letter Subject: Final Response Letter

Dear (b) (6):

The Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) received your September 02, 2021, Freedom of Information Act (FOIA) request on September 02, 2021, seeking:

"Documents reflecting any documented case of an individual who: (1) never received a COVID-19 vaccine; (2) was infected with COVID-19 once, recovered, and then later became infected again; and (3) transmitted SARS-CoV-2 to another person when reinfected."

A search of our records failed to reveal any documents pertaining to your request. The CDC Emergency Operations Center (EOC) conveyed that this information is not collected.

You may contact our FOIA Public Liaison at 770-488-6277 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Deputy Agency Chief FOIA Officer, Office of the Assistant Secretary for Public Affairs, U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue, Suite 729H, Washington, D.C. 20201. You may also transmit your appeal via email to FOIARequest@hhs.gov. Please mark both your appeal letter and envelope "FOIA Appeal." Your appeal must be postmarked or electronically transmitted by February 03, 2022.

Sincerely,

(b) (6)

(b) (6)

CDC/ATSDR FOIA Officer
Office of the Chief Operating Officer
Phone: (b) (6)
Fax: (b) (6)

#21-02152-FOIA

Encl(4)

August 15, 2021

MEMORANDUM FOR RECORD

SUBJECT: Pastor Verification Letter for Aaron W. Crabb

To whom it may concern, I understand that Aaron W. Crabb has submitted a religious accommodation request from the COVID vaccine directive. As his pastor, I can speak to the sincerity of his faith and his request. Aaron W. Crabb told me that after the directive to accept the COVID vaccine came out, he started searching the Scriptures as to how he should respond, and if he should accept the shot.

Aaron W. Crabb is a Christian, and believes the Bible to be the inspired, inerrant, holy, living Word of God as God's word states in II Timothy 3:16. Our Lord teaches a sanctification of our body. God tells us that we are a new creature in Him in II Corinthians 5:17. As a new creature in the Lord our pledge to the Lord is to live in His image and be Christ like without blemish and without spot as we are commanded in Romans 8:29, I Corinthians 15:49, II Corinthians 3:18, Colossians 1:15, Colossians 3:10, and Hebrews 1:3. When Jesus Christ went back to heaven after He was resurrected, He promised to send his Holy Spirit, who would guide us into all truth as told in John 14:16 & 26, 15:26, and John 16:7. Our church teaches that each believer in Christ receives the Holy Spirit, who directly leads the individual in his walk with God, as the believers seeks wisdom through prayer and Scripture reading as the Lord teaches in John 5:39, Acts 17:11, Romans 15:4, Romans 16:26, and II Timothy 3:15. Our church teaches that believers should follow their conscience, as informed by the written word of God, and the leading of his Holy Spirit. Our church teaches the Biblical sanctity of human life, and the Biblical interdiction against abortion as the shedding of innocent blood. This is described in Proverbs 19:23. Christians understand this interdiction to include ingesting or benefiting from products derived from or using aborted fetal cell lines.

Aaron W. Crabb has told me that based on his review of Centers for Disease Control (CDC) guidance and position statements, and understanding of the issues, and much prayer that he might discern truth from error, and whether he should get the shot, the Holy Spirit is not allowing him to accept the COVID shot. He believes that if he were to do so, he would be sinning against our living God in defiling his body and not keeping his Godly temple pure. Our church supports him as he follows the leading of the Holy Spirit and supports his request for a religious accomodation.

(b) (6)



DEPARTMENT OF THE NAVY
HELICOPTER SEA COMBAT SQUADRON FOUR
PO BOX 357101
SAN DIEGO CA 92135-7101

1000
Ser 00/184
10 Sep 21

From: Commanding Officer, Helicopter Sea Combat Squadron FOUR
To: Chief of Naval Personnel
Via: Commander, Carrier Air Wing TWO

Subj: DISAPPROVAL RECOMMENDATION ICO AWS1 AARON CRABB RELIGIOUS
ACCOMODATION

Ref: (a) DoD Instruction 1300.17
(b) SECNAVINST 1730.8
(c) BUPERSINST 1730.11
(d) BUMEDINST 6230.15B
(e) MILPERSMAN 1730-020
(f) Secretary of Defense Memo of 24 Aug 2021, "Mandatory Coronavirus Disease
Vaccination of Department of Defense Service Members
(g) NAVADMIN 110/21
(h) COMPAFLT GENADMIN OF CONSOLIDATED CPF COVID-19 GUIDANCE 4.2

Encl: (1) AWS1 Crabb request of 7 September 21
(2) AWS1 Crabb 1070/613 of 7 September 2021
(3) Military chaplain endorsement dtd 6 September 2021
(4) Healthcare provider counseling dtd 3 September 2021

1. Per reference (a) through (i), I am forwarding this request recommending disapproval in full.
2. The following information was considered or is provided for consideration as applicable.

a. Secretary of Defense guidance, reference (f), and Chief of Naval Operations guidance, reference (h), require Petty Officer Crabb to receive a COVID-19 vaccine. Further, Commander, U.S. Pacific Fleet guidance in reference (i) prescribes necessary measures to preserve mission assurance and force health protection. An exception to policy would have a negative impact on safety in my unit given community transmission levels associated with the Delta Variant of COVID-19.

b. The importance of the applicable military policies highlights the risks to mission readiness and health of the force associated with having a non-immunized force. Accordingly, I recommend disapproval of Petty Officer Crabb's request in order to both minimize the risk of community transmission of COVID-19 and ensure Petty Officer Crabb's wellbeing so that my squadron can maintain its ability to execute all assigned tasking.

Enclosure (2)

c. Denial of Petty Officer Crabb's request furthers compelling government interests – health of the force, military readiness, and mission assurance. There is no less restrictive means of accommodating Petty Officer Crabb's request due to his request to be exempted from all three currently available COVID-19 vaccines.

d. There are (0) service members in my squadron who have been granted a similar exemption.

3. A military chaplain endorsement of Petty Officer Crabb's request is attached as enclosure (3). I believe Petty Officer Crabb is sincere in his personal beliefs. Petty Officer Crabb received required counseling from a healthcare provider, attached as enclosure (4).

4. My point of contact (POC) for this matter is CDR (b) (6) who can be reached at (b) (6)

5. This recommendation was submitted to me on 8 September 2021 and will be emailed to OPNAV N131 for review/decision, via Commander Carrier Air Wing TWO.

(b) (6)

T. J. MURRAY

Copy to:
AWS1 Crabb

ADMINISTRATIVE REMARKS

NAVPERS 1070/613 (REV. 08-2012) PREVIOUS EDITIONS ARE OBSOLETE

SUPPORTING DIRECTIVE MILPERSMAN 1070-320

SHIP OR STATION:

HELICOPTER SEA COMBAT SQUADRON FOUR

SUBJECT:

COVID-19 Vaccination Administrative Counseling/Warning - Religious Accommodation Request Disapproval

☒ PERMANENT☐ TEMPORARY

AUTHORITY (IF PERMANENT)

NAVADMIN 190/21

On 7 Dec 2021, Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education)(N1) disapproved your request for religious accommodation through waiver or immunization requirements dated 2 Dec 2021. You have the right to submit an appeal within 5 business days to the Chief of Naval Operations via the chain of command using the same format as your initial request.

IAW lawful general orders and regulations and CSG-1 lawful orders, COVID-19 vaccination is mandatory for all Navy service member who are not exempt.

Any service members refusing the COVID-19 vaccination, absent a pending or approved exemption, may be subject to adverse administrative action (for example, adverse FITREP/EVAL, ACD/NEC removal, administrative/legal hold, promotion delay, advancement withhold, DFC, and Involuntary Separation subject to recoupment of any applicable bonuses, special pay or incentives, and the cost of training and education) and/or disciplinary action. Members not in compliance may also be reassigned regardless of exemption status based on operational readiness and mission requirements.

(b) (6) 1. You are ordered to initiate vaccination with an FDA-licensed vaccine or, optionally and alternatively, with a vaccine authorized for emergency use. If you choose a COVID-19 vaccine that requires two doses, you must receive the first dose within five calendar (5) days of today's date and complete the series as prescribed. If you choose a one-dose vaccine, you must meet the established vaccination timeline or receive the vaccine within five calendar (5) days of today's date, whichever is later. This is a lawful order. Failure to comply with this order constitutes a violation of the Uniform Code of Military Justice and may result in punitive or administrative action unless otherwise exempt. Proof of vaccination is required and must be entered in your medical record.

(b) (6) 2. COVID-19 vaccines that have received FDA licensure are a readiness requirement and are mandated for service members. Service members voluntarily immunized with a COVID-19 vaccine under FDA Emergency Use Authorization (EUA) or World Health Organization Emergency Use Listing in accordance with applicable dose requirements prior to, or after, the establishment of this policy are considered fully vaccinated in compliance with this order.

(b) (6) 3. Prior to receiving a COVID-19 vaccine, you will be provided access to healthcare providers to address questions or concerns and receive counseling regarding COVID-19 vaccination.

Member must initial all that apply below:

(b) (6) I acknowledge the above counseling/warning and understand its contents.

(b) (6)

Member's Signature Date/Signed

Commanding Officer

(b) (6)

Witness' Signature Date/Signed

7 Dec 21

ENTERED AND VERIFIED IN ELECTRONIC SERVICE RECORD:

VERIFYING OFFICIAL RANK OR GRADE/TITLE:

DATE:

SIGNATURE OF VERIFYING OFFICIAL:

YNC / Admin LCPD

7 DEC 21

(b) (6)

NAME (LAST, FIRST, MIDDLE):

SOCIAL SECURITY NUMBER:

BRANCH AND CLASS:

CRABB, AARON W

USN/AD

FOR OFFICIAL USE ONLY
PRIVACY SENSITIVE

Encl(3)



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
7700 ARLINGTON BOULEVARD
FALLS CHURCH VA 22042

IN REPLY REFER TO

6320
Ser M44/21UM42751
22 Nov 21

From: Chief, Bureau of Medicine and Surgery
To: Deputy Chief of Naval Operations (Manpower, Personnel, Training, and Education) (N1)

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS ICO AWS1 AARON W. CRABB, USN

Ref: (a) AWS1 Crabb's Waiver Request of 7 Sep 21
(b) BUMED Memo, Diseases Targeted with Mandatory Vaccinations for U.S.
Navy Active Duty and Reserve Personnel of 22 Sep 21
(c) BUMED INST 6230.15B, Immunizations and Chemoprophylaxis for the Prevention
of Infectious Diseases, 7 Oct 13
(d) SECNAVINST 1730.8B CH-1

1. Subject matter experts at the Bureau of Medicine and Surgery have reviewed reference (a). Per reference (a), AWS1 Crabb objects to receiving immunizations developed or tested using fetal cells based on his religious beliefs.
2. Fetal embryo fibroblast cells are used to grow viruses for multiple vaccines, including adenovirus, varicella (chickenpox), rubella (the "R" in the MMR vaccine), hepatitis A, one preparation of rabies vaccine, two combination vaccines containing the polio vaccine virus, and two formulations of zoster (shingles) vaccine. The FDA-approved Coronavirus Disease 2019 (COVID-19) vaccine did not require the use of any fetal cell cultures in order to manufacture the vaccine, however, early in the development of mRNA vaccine technology, fetal cells were used for "proof of concept" or to characterize the SARS-CoV-2 spike protein. All other vaccines, including tetanus, diphtheria, pertussis, influenza, etc., are not derived from fetal cells. No alternative formulations grown without fetal cells are currently available for COVID-19, adenovirus, varicella, rubella, and hepatitis A vaccines.
3. All vaccines required for maintenance of individual medical readiness and vaccines required for specific overseas deployments meet the safety requirements of the U.S. Food and Drug Administration (FDA), and have demonstrated effectiveness in disease prevention.
4. Per reference (c), Active Duty and Reserve Component personnel will receive or be up-to-date on adult routine vaccinations. Details of required vaccinations are outlined in this instruction and are available at www.health.mil/vaccines.
5. A waiver of immunization requirements would have detrimental effects on the readiness of both AWS1 Crabb and Service members who serve alongside AWS1 Crabb. Primary prevention of disease through immunizations is a key enabler for maintaining force health protection and avoiding disease-related non-battle injury, and has been the cornerstone of these efforts for decades. Recent outbreaks of contagious viral diseases aboard Navy ships highlight the

Subj: RELIGIOUS ACCOMMODATION REQUEST THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS ICO AWS1 AARON W. CRABB, USN

operational impact of low levels of immunity. Diseases such as COVID-19 are highly contagious and can rapidly degrade individual and unit readiness. In the current COVID-19 pandemic, the outbreak aboard the *USS THEODORE ROOSEVELT* in March 2020, resulted in 71 days of unavailability for a forward deployed aircraft carrier. There was an infection rate of more than 26% of the crew as confirmed by laboratory testing within 5 weeks of the initial positive case (including four hospitalizations and one death, according to data published in Journal of The American Medical Association 11 November 2020). This outbreak resulted in crew-wide quarantine, isolation, and repeated testing, and highlights the importance of vaccination to both individual and unit force health protection. Additional information on the potential impacts of vaccine-preventable diseases is provided in reference (b).

6. The scientific and medical communities believe that SARS-CoV-2 will likely remain in global circulation as an endemic virus and a threat to the Force. The emergence of the SARS-CoV-2 Delta variant shows that while some vaccinated personnel may transmit the virus, they are largely protected against severe illness and death. Unvaccinated individuals remain at risk for developing COVID-19 and propagating new variants that may adversely impact the readiness of the Force.

7. Vaccination remains the most effective means to prevent COVID-19 (as well as influenza, pertussis, diphtheria, tetanus, and other diseases). Optimally, vaccination should be coupled with other countermeasures to minimize risk of infections to the Sailor's health, co-workers' health, and to Navy's mission. In large phase III trials, the FDA-approved COVID-19 vaccine demonstrated over 94% efficacy in preventing symptomatic COVID-19. For the same vaccine, against the Delta variant in a real world setting, studies show 88% effectiveness against symptomatic disease, to include hospitalization and death. Additional information on the efficacy of other vaccines is provided in reference (b).

8. Per reference (d), the religious objection of the Service member must be balanced against the medical risk to the Service member and their military unit. The Department of Defense has a compelling interest in mission accomplishment and safeguarding the health of military Service members. In this case, the medical risks of not receiving required vaccines outweigh the religious objection that AWS1 Crabb has stated in reference (a).

9. A waiver of required immunizations is not recommended due to the aforementioned reasons.

10. My point of contact is CDR (b) (6) MC, USN, Preventive Medicine, (b) (6) (b) (6) ml@mail.mil.

(b) (6)

Business Operations



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
7700 ARLINGTON BOULEVARD
FALLS CHURCH VA 22042

IN REPLY REFER TO
6320
Ser M44/22UM401

15 Jun 22

From: Chief, Bureau of Medicine and Surgery
To: Chief of Naval Operations

Subj: POST-INFECTION (NATURAL) IMMUNE RESPONSE COMPARED TO
IMMUNIZATION-DERIVED IMMUNE RESPONSE TO CORONAVIRUS DISEASE
2019

Encl: (1) References

1. The Navy has a compelling interest in protecting every Service member—especially those serving at sea or deployed—from severe illness, hospitalization, and death from Coronavirus Disease 2019 (COVID-19). No U.S. Food and Drug Administration (FDA)-authorized or approved test exists to measure an individual's immunity against the SARS-CoV-2 virus or future vulnerability to COVID-19. Vaccination is the only safe, controlled, and reliable method of preventing hospitalization and death from COVID-19. Vaccination has been studied using randomized controlled clinical trials, which are the highest level of scientific evidence, and are designed to be unbiased and less susceptible to systematic error.

2. Human immunity is defined as protection from infection, re-infection, and severe disease leading to hospitalization or death. Immunity is complex and incompletely understood. Immunity can be achieved through passive immunity, including maternal transfer of antibodies to a fetus or infusion of protective antibodies. Immunity can also be achieved through active mechanisms, to include natural immunity acquired from exposure to the disease and vaccination. Immunity can vary by person and by disease.

3. There is neither an FDA-authorized nor FDA-approved clinical test, such as an antibody-based test, to determine the extent of individual immunity against SARS-CoV-2 infection.

a. When there is sufficient data to define numerical thresholds of antibody levels or other measures that correlate to an individual's immunity to a disease, it may be possible to develop a test for individual immunity. Varicella and hepatitis B are examples of diseases for which there are FDA-authorized antibody-based tests for immunity. Influenza and COVID-19 are examples of diseases for which no FDA-authorized or FDA-approved test of immunity is available.

b. Antibody tests offer an incomplete assessment of an individual's immunity to SARS-CoV-2 infection and COVID-19 illness. Laboratory tests can identify the presence of antibodies to SARS-CoV-2, but there is currently no known threshold of antibody levels, or any other measure, that correlates to an individual's immunity to SARS-CoV-2 infection or COVID-19 illness, (reference (a)). Furthermore, due to the complexity and redundancy of the various components of the immune system, the presence or absence of antibodies is not the sole measure of the body's susceptibility to SARS-CoV-2 infection.

Subj: POST-INFECTION (NATURAL) IMMUNE RESPONSE COMPARED TO
IMMUNIZATION-DERIVED IMMUNE RESPONSE TO CORONAVIRUS DISEASE
2019

c. In the research setting, neutralizing antibody tests have been studied to determine whether antibodies are able to inactivate live SARS-CoV-2 virus, and may better assess immunity. But, again, it remains unknown what level of antibodies, if any, correlates to an individual's immunity to SARS-CoV-2 infection or COVID-19 illness, (reference (m)).

d. The FDA advises against relying on antibody tests as an indication of immunity. Currently, authorized SARS-CoV-2 antibody tests are not validated to evaluate specific immunity or protection from SARS-CoV-2 infection. While a positive antibody test can indicate an immune response has occurred (seroconversion), and failure to detect such a response may suggest a lack of immune response, more research is needed. Nor is an antibody test validated to assess the level of protection provided by an immune response to COVID-19 vaccination. Thus, comparing results of antibody tests is not a valid method of comparing the level of immunity in those who have been infected with SARS-CoV-2, to those who have received a COVID-19 vaccine, (reference (n)).

4. Prior infection is not a reliable source of immunity at the individual level for multiple reasons.

a. Multiple studies have reported substantial heterogeneity in the immune response among individuals with COVID-19, (references (b) through (e)).

b. Previous studies noted antibody response following natural infection offered less cross-protection against new variants compared to vaccination, (references (b), (h) through (k)).

c. Furthermore, the duration of immunity appeared to be shorter following natural infection compared to vaccination.

d. A post-Delta and pre-Omicron CDC report found that infection-derived protection prevented more reinfection and hospitalizations than vaccination without prior SARS-CoV-2 infection, (reference (l)). However, this report contained several limitations, which make it an unreliable basis for public health policy:

(1) This population level study cannot extrapolate immunity in a population to immunity in an individual.

(2) The authors state the analyses were not stratified by time, and as a result they did not consider the effect of waning immunity. This limits the conclusions, which may be derived from the data.

(3) The study design allowed for misclassification bias (systematic error), since persons classified as having no previous COVID-19 diagnosis may have had undiagnosed infection.

(4) There was also the potential for bias due to unmeasured confounding variables with respect to individual behavior, where study groups may differ in their SARS-CoV-2 exposure risk depending on whether they had been vaccinated.

Subj: POST-INFECTION (NATURAL) IMMUNE RESPONSE COMPARED TO
IMMUNIZATION-DERIVED IMMUNE RESPONSE TO CORONAVIRUS DISEASE
2019

(5) This bias may also have occurred with respect to study subjects seeking testing for COVID-19.

(6) The report did not account for the spectrum of COVID-19 disease severity in the groups with previous infections, which can affect the degree of natural immunity that is derived from prior infection.

(7) This study was carried out prior to the emergence of the Omicron variant for which vaccine or infection-derived immunity might be decreased.

e. There have not been any peer review studies comparing natural immunity and vaccination during the Omicron variant surge.

5. In contrast to natural immunity, vaccination has undergone strictly controlled clinical trials and outside review by the FDA using the highest level of scientific evidence to confirm vaccination provides protection against COVID-19 hospitalization and death.

6. Vaccination is the single greatest intervention we can utilize to safely and predictably protect our Naval forces against infectious disease. Reliance on natural immunity, the effectiveness of which is variable and unmeasurable, places the readiness of the force and our critical missions at preventable risk.


7. My point of contact is (b) (6) who can be
(b) (6) @mail.mil.

(b) (6)

B. L. GILLINGHAM

Copy to:
DCNO (NI)

REFERENCES

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- (b) Cavanaugh AM, Spicer KB, Thoroughman D, Glick C, Winter K. Reduced Risk of Reinfection with SARS-CoV-2 After COVID-19 Vaccination — Kentucky, May–June 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:1081-1083. DOI: <http://dx.doi.org/10.15585/mmwr.mm7032e1> 
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- (e) Wan Ni Chia, et. al. “Dynamics of SARS-CoV-2 neutralising antibody responses and duration of immunity: a longitudinal study” *The Lancet Microbe*, Volume 2, Issue 6, 2021, Pages e240-e249
- (f) Liu, et al., *Emerging Infectious Diseases*, Vol 27, No. 9, Sep 2021, https://wwwnc.cdc.gov/eid/article/27/9/21-1042_article
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- (i) World Health Organization (WHO) Institutional Repository for Information Sharing, <https://apps.who.int/iris/handle/10665/341241>
- (j) Stamataatos, et al., “mRNA vaccination boosts cross-variant neutralizing antibodies elicited by SARS-CoV-2 infection,” *Science*, 2021, <https://doi.org/10.1126/science.abg9175>
- (k) Deng, et al., “Transmission, infectivity, and neutralization of a spike L452R SARS- CoV-2 variant,” *Cell*, 2021, <https://doi.org/10.1016/j.cell.2021.04.025>
- (l) Leon TM, Dorabawila V, Nelson L, et al. “COVID-19 Cases and hospitalizations by COVID-19 vaccination status and previous COVID-19 diagnosis – California and New York, May–November 2021.” *MMWR Morb Mortal Wkly rep* 2022; 71:125-131. DOI: <https://dx.doi.org/10.15585/mmwr.mm7104e1>
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DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser N13/306
17 Nov 21

MEMORANDUM

From: Director, Military Personnel Plans and Policy (N13)
To: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)

Subj: RELIGIOUS ACCOMMODATION (RA) REQUESTS FROM SAILORS SEEKING
IMMUNIZATION WAIVERS

Ref: (a) 42 U.S.C. §2000bb-1
(b) DoD Instruction 1300.17 of 1 Sep 20
(c) SECNAVINST 1730.8B Ch-1
(d) BUPERSINST 1730.11A
(e) MILPERSMAN 1730-020
(f) ASN (M&RA) memo of 6 Jun 13
(g) BUMEDINST 6230.15B
(h) OPNAVINST 1300.20

Encl: (1) CHBUMED ltr 6320 Ser M44/21UM401 of 22 Sep 21
(2) CDC Information of 15 Sep 21

1. Purpose. This memorandum provides analysis of the least restrictive means for achieving the Navy's compelling government interest in preventing the spread of diseases to support mission accomplishment, including military readiness, unit cohesion, good order and discipline, or health and safety, at the individual, unit, and organizational levels. This includes reducing vaccine preventable diseases in individual Sailors and preventing the spread of vaccine-preventable communicable diseases among Sailors. The compelling government interest is not in dispute and is addressed here only briefly. Navy leaders have determined that requiring all Navy Service Members ("Sailors") to be vaccinated against certain diseases is the least restrictive means of achieving that compelling government interest. This memorandum explains the analysis behind that determination and addresses the risk to mission accomplishment inherent in deviating from requiring vaccination of all Sailors.

2. References. Reference (a), the Religious Freedom Restoration Act (RFRA), prohibits the U.S. Government from substantially burdening a person's exercise of a sincerely held religious belief unless the restriction, as applied to the specific person, is in furtherance of a compelling government interest and is the least restrictive means of furthering that compelling government interest. References (b) through (d) establish procedures for Sailors seeking religious accommodations (RAs). Reference (e) provides amplifying details on RA requests for

Subj: RELIGIOUS ACCOMMODATION (RA) REQUESTS FROM SAILORS SEEKING
IMMUNIZATION WAIVERS

immunization waivers.¹ Reference (f) designates the Deputy Chief of Naval Operations (Manpower, Personnel, Training, and Education) (DCNO N1) as the U.S. Navy adjudication authority for RAs, including requests for immunization waivers. In cases where DCNO N1 has disapproved a request, and the member submits an appeal, the adjudication authority rests with the Chief of Naval Operations (CNO), in line with references (c) and (d).

Compelling Government Interest

3. The Navy's compelling government interest in preventing spread of diseases to support mission accomplishment, including military readiness, unit cohesion, good order and discipline, or health and safety, at the individual, unit, and organizational levels is addressed in enclosures (1) and (2), along with the Bureau of Medicine and Surgery (BUMED) endorsement on each RA request seeking an immunization waiver. Vaccine-preventable diseases cause severe illness, long-term health effects, and death, interfere with the ability of Sailors to accomplish the Navy's mission at the individual, unit, and organizational levels, decrease the overall health of the force, and place additional strain on medical resources. Spread of communicable diseases among Sailors who live and work in tight quarters aboard ships or in communal environments while deployed, or who live or work in close proximity to others in the shore establishment, have the potential to cause mission failure when one or more personnel become too sick to effectively do their jobs. Logistical challenges inherent in moving personnel to and from deployed ships and other deployed environments make it difficult to quickly evacuate sick personnel and replace them with healthy personnel who are adequately trained and ready at a moment's notice. The Navy's lean manning methodology to operate successfully during prolonged budget constraints further limits the quick replacement of personnel in deployed environments. In the case of personnel operating in foreign locations, the spread of communicable diseases from U.S. Navy personnel to host-nation personnel would have a detrimental impact on U.S. foreign relations, especially if the illness was viewed as preventable. Additionally, Navy ships have limited medical and long-term placement capabilities. If even one Sailor infected with a communicable disease requires treatment beyond the capabilities of a ship's medical department, or if multiple Sailors must be placed in critical care, a decision will have to be made whether the ship may have to abandon its mission and transit to a location that offers more adequate treatment. Foreign medical facilities may also refuse to accept a U.S. Navy patient infected with a communicable disease, requiring the ship to transit farther—potentially thousands of miles, exacerbating an already difficult situation. Foreign ports may refuse entry to a Navy ship with a communicable disease onboard. The ship may be denied free pratique and not allowed to enter

¹ As of the date of this memorandum, reference (e) is out of conformity with reference (b), rendering many provisions of reference (e) invalid. For example, a commanding officer (CO) cannot order a Sailor with an RA approved by DCNO N1 to receive a vaccine waived by the RA because reference (b) allows rescission of an RA only by an official at the level in the chain of command that granted the RA. In other words, if DCNO N1 grants an RA, then only DCNO N1 (or someone senior to DCNO N1) may rescind the RA. The only exception is for exigent circumstances amounting to a life-threatening or mission critical emergency. (For example, a CO could order a Sailor to shave a religious beard approved by DCNO N1 to get an effective seal on a gasmask in response to credible intelligence of an imminent chemical weapons attack.) Because immunizations do not provide immediate immunity, it is unlikely a CO would have bona fide exigent circumstances to order a Sailor to receive an immunization where a RA waived the requirement for a Sailor to receive that immunization. *See, e.g.,* CDC guidance on the COVID-19 Delta variant, available online at: https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html?s_cid=11617:delta%20variant%20covid:sem.ga:p:RG:GM:gen:PTN.Grants:FY22.

Subj: RELIGIOUS ACCOMMODATION (RA) REQUESTS FROM SAILORS SEEKING
IMMUNIZATION WAIVERS

port or allow personnel to embark or disembark. While the consequences of disease are most severe in deployed ships, they are nevertheless compelling in Navy billets ashore. A significant portion of the shore establishment is collocated with the operating forces and supports those forces with readiness activities such as maintenance, technical support, training, and medical care. Many shore duty billets require in-person work in enclosed office spaces where spread of disease is possible. Even Sailors who might be able to work in isolation a large portion of the time have certain military duties, such as medical exams, physical fitness tests, urinalysis, and ad hoc meetings. Finally, because the Navy prioritizes manning on deployable units first, many shore units are manned only at or *below* the planned manning levels, magnifying the impact of preventable sickness on mission accomplishment.

4. There are specific compelling government interest concerns for each required vaccination.

a. COVID-19 can cause severe illness and death in young, otherwise healthy individuals, including the eight active duty Sailors and two active duty Marines killed by the disease as of 26 October 2021. All ten of these personnel were not fully vaccinated. No deaths caused by COVID-19 have been reported in fully vaccinated service members, active or reserve. The highly transmissible Delta variant is of particular concern and is more transmissible than other variants.² As reported in enclosure (1), studies of available mRNA vaccines, including the FDA-approved Comirnaty vaccine manufactured by Pfizer, have shown an 88% efficacy rate against the Delta variant. Further, enclosure (1) discusses a recent study showing over 71% of recent COVID infections occurring in unvaccinated individuals and more than 85% of hospitalizations in unvaccinated individuals. For people evaluated in the study, the hospitalization rate of unvaccinated individuals was more than 29 times that of fully vaccinated individuals. While anyone can spread COVID-19, fully-vaccinated people will likely spread the virus for less time and to fewer people than unvaccinated people.

b. In the case of Sailors, including those in the accession pipeline, who are requesting waiver of all future immunizations, the following considerations apply to vaccinations required by reference (g) for all Sailors, regardless of location:

(1) Every year, the influenza vaccine is required for all Sailors who do not have a medical or administrative exemption. As explained in enclosure (1), the spread of influenza will deprive the Navy of medical resources and commands of personnel needed to accomplish the mission while those personnel recover and place additional strain on those who must augment to fill the sick Sailors' positions. In severe cases, personnel infected with influenza require hospitalization. Influenza outbreaks can be explosive, with the potential to incapacitate many Sailors assigned to one command.

(2) Every 10 years, the Tdap (tetanus, diphtheria, pertussis) or Td (tetanus, diphtheria) vaccine is required for all Sailors who do not have a medical or administrative exemption. Enclosure (1) explains the specific, debilitating consequences of infection with each of the diseases prevented by the highly effective Tdap vaccine. For example, the Tdap vaccine is almost 100% effective at preventing tetanus, a disease with an 11% mortality rate. Infection

² Centers for Disease Control and Prevention. "Delta Variant: What We Know About the Science" 26 Aug 2021.

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with tetanus would prevent a Sailor from performing their individual mission and affect mission accomplishment at the unit level, and recovery takes months. Tdap is 97% effective at preventing diphtheria, which is common in some areas outside of the United States. Before the development of a vaccine, diphtheria was a leading cause of death among children in the United States. Diphtheria has a 5 to 10% mortality rate. Tdap is 80 to 85% effective at preventing pertussis, a disease that causes bacterial pneumonia in more than 13% of cases. A Sailor infected with any of the diseases that Tdap successfully prevents could be inhibited from accomplishing their mission for months, and death is possible.

c. A number of vaccines are required by reference (g) for deployment and/or overseas assignment. These location-specific vaccinations protect Sailors against local threats, including anthrax, Japanese encephalitis, yellow fever, typhoid fever, and smallpox. The Geographic Combatant Command (GCC) establishes these requirements, and the GCC Command Surgeon serves as the approval authority for waivers of the GCC requirements. The following information is from the Centers for Disease Control and Prevention (CDC) website (www.cdc.gov) and other public sources:

(1) The CDC website reports the anthrax vaccine is 93% effective. Anthrax inhalation³ is almost always fatal in unvaccinated individuals who do not receive immediate treatment, and even with aggressive treatment, anthrax inhalation kills 45% of unvaccinated patients.

(2) The World Health Organization website (www.who.int) indicates the Japanese encephalitis vaccine is more than 99% effective. The CDC website indicates that, although Japanese encephalitis is rare, one in four cases is fatal.

(3) According to the CDC, typhoid fever is common in developing nations, with as many as 21 million cases occurring each year, mostly in South Asian and Southeast Asian nations frequented by deployed Sailors. Because antibiotic treatments are effective against the disease, only about 200,000 of these patients die each year. However, the CDC reports a growing incidence of typhoid fever resistant to antimicrobial drugs. The disease can be spread both by contaminated food and water and by contact with infected persons.

(4) The CDC website reports that, although yellow fever infection is rare, 30 to 60% of those who develop severe yellow fever disease die.

(5) The smallpox vaccination is so effective that it eradicated a disease the World Health Organization characterizes on its website as “one of the most devastating diseases known to humanity.” Before mass vaccination, millions of people were killed or disfigured by the disease. It is believed that smallpox no longer exists in nature. However, the CDC reports, “There is a credible concern that in the past some countries made the virus into weapons, which may have fallen into the hands of terrorists or other people with criminal intentions.”

³ The anthrax immunization requirement in reference (g) is designed to protect personnel against weaponized anthrax. Research into the harm of anthrax has been possible because of exposure to naturally occurring anthrax.

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d. Requiring new accessions to the Navy to have completed or receive traditionally childhood immunizations is also critical to mission accomplishment. Although an individual breakdown of these required immunizations is beyond the scope of this memorandum, it is addressed in Appendix D to reference (g). Examples of diseases for which new accessions must receive immunizations, if not previously immunized, include adenovirus, polio, measles, mumps, rubella, hepatitis A and B, and varicella.

Non-Pharmaceutical Interventions (NPIs)

5. BUMED reports that the CDC recommends use of NPIs in conjunction with vaccination to stem the spread of diseases transmitted by respiratory droplets, including COVID-19, influenza, and pertussis. Specifically, the CDC recommends respiratory hygiene (covering mouth and nose while coughing or sneezing), avoiding touching the face, frequent hand washing with soap for at least 20 seconds, cleaning and disinfecting objects and surfaces that are frequently touched, avoiding sick people, and self-quarantine when a person feels unwell. BUMED reports that masking is appropriate in some circumstances, as well as social distancing of six feet or more to stem the spread of certain respiratory illnesses. Unfortunately, BUMED reports that there is very limited data available on the effectiveness of NPIs. This makes it difficult to compare scientifically proven efficacy rates of NPIs not accompanied by vaccination to the efficacy rates of vaccination or vaccination with NPI usage. BUMED states that NPIs are known to be more effective at preventing spread of disease when implemented as community-wide mandates than when implemented by one individual. This factor is key in the determination that NPIs are not sufficient alone to protect Sailors from the risks imposed by COVID-19 and other communicable diseases, and ultimately to ensure the Navy's ability to achieve mission accomplishment, including readiness, unit cohesion, good order and discipline, or health and safety, at the individual, unit, and organizational levels.

Least Restrictive Means

6. COVID-19. As discussed below, mandatory immunization of all Sailors against COVID-19 is the least restrictive means of achieving the Navy's compelling government interest in reducing to zero any preventable impairment to mission accomplishment, including readiness, health, and safety, at the individual, unit, and organizational levels in the operating forces and shore establishment.

a. Health and Safety. The Navy has not identified any means equally or more effective than mandatory immunization against COVID-19 to ensure the health and safety of Sailors, including a Sailor who seeks a religious accommodation from the mandatory COVID-19 vaccination requirement. As discussed in paragraph 4 and enclosure (1), the scientific data shows that a fully vaccinated Sailor is at far less risk of serious illness or death in the event of a "breakthrough COVID-19 case." To date, not one fully vaccinated Sailor has died from COVID-19. Among those Sailors who are fully vaccinated, only 1.7 percent contracted a "breakthrough case" between 17 December 2020 and 26 October 2021. In the same timeframe, 23.3% of unvaccinated active duty Sailors experienced COVID-19 infections. Regardless of whether a Sailor is assigned to the operating forces or the shore establishment, mandatory COVID-19

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immunization is the least restrictive means to ensure readiness and health and safety at the individual, unit, and organizational levels of the Navy.

b. Restriction of Movement (ROM). For more than a year during the COVID-19 pandemic, the Navy imposed stringent restrictions across the force in every location to limit the activities and behaviors of Sailors assigned to both shore and operational units to keep them and the force healthy. Almost all quality-of-life port visits were cancelled, and Sailors were ordered to quarantine within the bubbles of their ships for two weeks before getting underway. (This quarantine is referred to as restriction of movement (ROM).) Ashore, Sailors were ordered to forego haircuts, prohibited from dining in restaurants, and restricted from recreation to a far greater degree than the general public. COVID-19 vaccinations have allowed the lives of many Sailors to start getting back to normal. ROM periods have been relaxed for fully vaccinated Sailors and for crews of ships with very high vaccination rates.

(1) In the best of times, Navy life is hard on Sailors' family and social lives. There are many challenges that our Sailors face that are unique to naval service. In the case of an operational unit preparing to deploy, additional stress is expected as the Sailors must balance the demands of work and home. Long periods of time underway are known to strain the emotional and psychological wellbeing of Sailors. Adding additional periods of time isolated from family, friends, and society at large due to ROM requirements has exacerbated these concerns and negatively impacted readiness. This concern is equally as important on shore duty, which the Navy relies on as a periodic respite from the stress of sea duty. However, the ROM periods were justified as a necessary mitigation technique to avoid COVID-19 infections that could interfere with mission accomplishment, and were largely effective.

(2) It is not safe for a vessel to deploy with even one unvaccinated Sailor unless the entire crew goes through a ROM period and port visits continue to be cancelled. As explained in enclosure (2), "Vaccinated people can still become infected and have the potential to spread the virus to others, although at much lower rates than unvaccinated people." Further, unvaccinated personnel are significantly more likely to require hospitalization than vaccinated individuals with breakthrough infections. Taken together, these two facts make clear that imposing ROM measures only on unvaccinated Sailors would be insufficient to protect against risk of mission failure inherent in allowing unvaccinated Sailors to go to sea because an unvaccinated Sailor can be exposed to COVID-19 via a breakthrough case in a vaccinated shipmate who was not required to ROM. There is an appreciable risk that acquiring treatment for one unvaccinated Sailor would require a ship to abandon its mission and transit to a location with a shore-based medical facility able and willing to care for the COVID-19 patient. Some countries may deny a Navy ship free pratique, that is entry into port and disembarkation or embarkation of personnel, if there is a communicable disease onboard, or host-nation medical facilities may be unwilling or unable to accept unvaccinated U.S. COVID-19 patients, which could lead to a ship abandoning its mission and transiting thousands of miles in an effort to save a life, with negative impact on unit and organizational mission accomplishment.

(3) Continuing to require 14-day ROM periods for all Sailors and canceling future port visits is not a sustainable approach. Port visits serve as a much-needed venue to acquire parts, mail, fresh food, and a quality of life respite for Sailors. This approach would involve a very

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high cost to the emotional and psychological wellbeing of other Sailors, decreasing the readiness of the entire crew. Further, a deployment with no port visits that locks Sailors to their ships weeks before getting underway will likely lead to diminished job satisfaction and discourage Sailor recruitment and retention. While this tradeoff was temporarily acceptable during the COVID-19 pandemic before vaccinations were available, use of ROM as permanent means of accomplishing the Navy's compelling governmental interest in mission accomplishment is untenable.

c. Other available NPIs, both those identified by BUMED and others discussed by recent news articles, are insufficient to protect unvaccinated Sailors aboard U.S. Navy ships for the following reasons:

(1) Masking. The Navy can require all Sailors to wear masks, but full-time tight quarters on a ship severely limits its effectiveness, as does communal living in barracks or working in close quarters ashore. Aboard ship, unvaccinated Sailors will have to eat, sleep, shower, and brush their teeth in the same spaces as vaccinated Sailors who have gone on liberty among the general public and been excused from ROM requirements.

(2) Ventilation. U.S. Navy ships have almost no windows, and fresh air circulation is limited by steel construction that includes collective protection systems (CPS) in place to seal off areas of ships for protection against chemical, biological, or radiological weapons attacks. During training drills, the ship will secure ventilation to demonstrate the required actions in the case of a damage-control emergency.

(3) Social distancing. Maintaining a social distance for Sailors on U.S. Navy ships is impossible. Narrow passageways do not allow for Sailors to maintain social distances when transiting a ship. Almost all enlisted berthing compartments feature three-foot by six-foot bunks, referred to as "racks," that are stacked three high and have only narrow passages between rows. Enlisted berthing compartments have as few as 12 and as many 210 personnel sleeping in the same space, where there are generally racks for six Sailors in every thousand cubic yards. Sailors in larger berthing compartments are never alone in the head when they shower or brush their teeth while underway because a head the size of a studio apartment can be shared among 200 or more personnel. In the case of fast-attack submarines, populations are smaller, but some Sailors have to take turns sleeping in shared racks. Most officers share small staterooms with between one and five of their peers, and tiny heads are often shared between many officers. In addition to sleeping and engaging in personal hygiene, meals are also uncondusive to use of NPIs. Sailors are fortunate if they can keep their elbows and knees six inches from those around them while eating on mess decks. The wardrooms where officers dine are only slightly more spacious. Extending meal hours to allow fewer people to dine at a time would unfairly burden Culinary Specialists and Food Service Attendants, who are already known in the Navy for having some of the longest and most arduous working hours, and would not be sustainable. There are few alternative locations for Sailors to eat on ships, and allowing Sailors to take meals out of areas designated for eating has the potential to invite rodent and insect infestations. Even if the recommended 6-foot spacing were possible, it may not be adequate aboard ships due to the ventilation characteristics of the vessel. Social distancing may be more tenable ashore, but is highly dependent on the type of work a Sailor does and the configuration of their workspace(s).

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(4) Cleanliness. As hard as Sailors work to keep their ships clean, safe transit up and down ladders and through watertight doors requires everyone to touch all of the same handrails and handles frequently. Further, although Sailors can be reminded to use hand sanitizer, frequent handwashing is not generally possible because Sailors have to transit up and down ladders, with those shared handrails, to get between their workspaces and the heads in which they can wash their hands.

(5) Self Quarantine. It is very difficult to quarantine individual Sailors onboard an underway U.S. Navy ship because there are limited extra spaces. On smaller ships, medical divisions operate out of one space. Even on larger ships, medical departments have limited space to quarantine or isolate personnel. Further, vaccinated or unvaccinated Sailors with COVID-19 infections may be asymptomatic or may suffer such mild symptoms that they do not realize they are contagious until after an unvaccinated shipmate has become infected.

d. Because shipboard environments significantly limit the effectiveness of all NPIs, and because even one serious COVID-19 infection can pull a ship off station resulting in mission failure at the unit and possibly organizational levels, immunization of all Sailors against COVID-19 is absolutely necessary and is the least restrictive means of achieving the Navy's compelling government interest in preventing spread of communicable disease to ensure mission accomplishment.

e. Although the drawbacks of NPIs are most acute shipboard, the NPIs still do not meet the compelling government interest ashore. Ashore, a Sailor is in more frequent contact with the public, and has significant interaction outside the Navy workplace. Therefore, the opportunity to be in close contact with an infected person is actually greater. Additionally, none of the NPI, individually or together, is sufficiently effective to meet the Navy's compelling government interest.

7. Other Respiratory Illnesses. NPIs are ineffective at stemming the spread of other respiratory illnesses aboard ships for the same reasons NPIs are ineffective against COVID-19. For many years, U.S. Navy units have been spared serious outbreaks of influenza, diphtheria, and pertussis by widespread vaccination among the U.S. population and among Sailors in particular. Unfortunately, vaccine hesitancy in recent years has allowed for an uptick in communicable disease in the American public. Due to the tight quarters aboard ships discussed above, infection with one of these respiratory illnesses by an unvaccinated Sailor is likely to spread quickly and incapacitate other unvaccinated Sailors. Because of lean shipboard manning and the possible need to abandon a mission to seek higher-level medical care for an infected Sailor, one of these diseases could lead to mission ineffectiveness or mission failure. Therefore, immunization is the least restrictive means available to achieve the Navy's compelling government interest in reducing to zero any preventable impairment to mission accomplishment because it helps to prevent the spread of these diseases through individual infections or community spread of these diseases.

8. Mosquito-Borne Illnesses. Japanese encephalitis and yellow fever are transmitted by mosquitos. Sailors traveling to or stationed in parts of the world where one of these diseases is

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endemic can protect themselves through very careful use of mosquito repellents. Unfortunately, there is risk in forgetting to apply repellent or getting bitten immediately after showering but before having an opportunity to apply repellent. Also, the potential harm from these diseases is great, including risk of death. Because NPIs are significantly less reliable than immunization, NPIs alone are not sufficient to prevent spread of mosquito-borne illnesses, and immunization is the least restrictive means available for preventing the spread of these diseases to allow for mission accomplishment. These vaccines are required only of Sailors who are likely to be deployed to areas of the world where the diseases are common.

9. Contamination-Related Illnesses. Typhoid fever is usually caused by consumption of contaminated food or water or by close contact with an infected person, and is common in certain parts of the world. Tetanus is caused by bacterium spores entering the body through broken skin. Ships, piers, and shipyards are industrial environments in which any scrape or scratch could cause a tetanus infection for an unvaccinated Sailor. There are no NPIs to prevent the spread of these illnesses, and risk of harm is great. Therefore, immunization is the least restrictive means available for preventing harm from these diseases to allow for mission accomplishment. The Typhoid vaccine is required only of Sailors who are likely to be deployed to areas of the world where the disease is common.

10. Weaponized Disease. Anthrax and smallpox present a threat to Sailors only if weaponized by an enemy or terrorist organization. Immunization is the only measure to prevent either of these diseases. Therefore, immunization is the least restrictive means for preventing harm from these diseases to allow for mission accomplishment.

11. Sailors on Shore. The U.S. Navy budget, end-strength limits, and personnel strategy dictate that every Sailor must be deployable and do not allow for keeping Sailors on the payroll who are unable to deploy. This policy is documented by reference (h), OPNAVINST 1300.20, "Deployability Assessment and Assignment Program," which requires administrative separation processing or referral to the Disability Evaluation System for any Sailor who is undeployable for 12 months or longer. It is very rare for a Sailor to be retained in a permanent limited duty status because the Navy needs Sailors who can go to sea or otherwise deploy.

a. Authorizing Sailors assigned to shore duty or the Navy Reserve to forego required immunizations is untenable because of the need for Sailors to be ready to deploy at a moment's notice. Even a Sailor on shore duty pending retirement can be called up to deploy when necessary to achieve mission requirements. Presidential recall under Title 10, U.S. Code, authorizes the Reserve Component to mobilize in a variety of geographic locations, including overseas.

b. Immunity is not instantaneous. Every vaccination requires time to confer immunity. In the case of the now-mandatory COVID-19 Pfizer vaccination, immunity is achieved five weeks after the first dose (two weeks after the second dose). For a short-notice mission, whether in response to tasking or to relieve other Sailors impacted by injury or illness, mission failure could result if Navy leaders are required to wait five weeks to safely deploy Sailors waived from vaccination requirements because of assignment to shore duty.

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c. Even one unvaccinated Sailor, after contracting COVID-19, affects mission accomplishment at the individual level, and can infect dozens of other Sailors, exacerbating the problem of shore and Reserve deployability. Vaccines for worldwide-deployable Sailors throughout the force (shore and sea) constitute the least restrictive means of ensuring a ready, agile fighting force.

d. In addition, individual Sailors and units ashore perform important duties in support of the Navy mission. As an "optimally" manned organization, the Navy relies on each Sailor and unit to be fully ready to accomplish their mission because there is often no backup person with the same skillset. Therefore, even a Sailor who is not subject to imminent deployment must be ready, healthy, and safe to perform their shore-based mission.

12. To achieve its mission, the Navy relies on all Sailors receiving required immunizations, except where the health risk of vaccination exceeds the benefits of vaccination, such as in the case of life-threatening allergies to vaccine components. The small group of Sailors who have temporary medical exemptions and the very small group with permanent medical exemptions are at higher risk for infection, hospitalization, and death, making it even more important that those who work with and around them to be vaccinated. Deviating from this standard will put the mission, our medical capabilities, our Sailors, and their families at risk.

(b) (6)

J. P. WATERS
Rear Admiral, U.S. Navy



DoD INSTRUCTION 1300.17

RELIGIOUS LIBERTY IN THE MILITARY SERVICES

Originating Component:	Office of the Under Secretary of Defense for Personnel and Readiness
Effective:	September 1, 2020
Releasability:	Cleared for public release. Available on the Directives Division Website at https://www.esd.whs.mil/DD/ .
Reissues and Cancels:	DoD Instruction 1300.17, "Accommodation of Religious Practices Within the Military Services," February 10, 2009, as amended
Incorporates and Cancels:	Assistant Secretary of Defense for Force Management Policy Memorandum, "Sacramental Use of Peyote by Native American Service Members," April 25, 1997
Approved by:	Matthew P. Donovan, Under Secretary of Defense for Personnel and Readiness

Purpose: In accordance with the authority in DoD Directive 5124.02, this issuance:

- Establishes DoD policy in furtherance of the Free Exercise Clause of the First Amendment to the Constitution of the United States, recognizing that Service members have the right to observe the tenets of their religion, or to observe no religion at all.
- Establishes policy, assigns responsibilities, and provides procedures for the accommodation of religious practices of Service members.
- Establishes DoD policy on the accommodation of individual expressions of sincerely held beliefs (conscience, moral principles, or religious beliefs), which do not have an adverse impact on military readiness, unit cohesion, good order and discipline, or health and safety.
- Establishes DoD policy providing that an expression of sincerely held beliefs (conscience, moral principles, or religious beliefs) may not, in so far as practicable, be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.
- Implements requirements in Section 2000bb-1 of Title 42, United States Code (U.S.C), also known as "The Religious Freedom Restoration Act" (RFRA), and other laws applicable to the accommodation

of religious practices for DoD to provide, in accordance with the RFRA, that DoD Components will normally accommodate practices of a Service member based on a sincerely held religious belief.

- Requires DoD Components to oversee the development and provision of education and training on the policies and procedures pertaining to the accommodation of religious practices of Service members to commanders, judge advocates, chaplains, recruiters, and other personnel as deemed appropriate by the Military Department or Military Service concerned.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

b. The definitions, policies, procedures, and assignments of responsibility prescribed in this issuance apply only to the accommodation of religious practices of Service members and in no other context.

1.2. POLICY.

a. Pursuant to the Free Exercise Clause of the First Amendment to the United States Constitution, Service members have the right to observe the tenets of their religion or to observe no religion at all, as provided in this issuance.

b. In accordance with Section 533(a)(1) of Public Law 112-239, as amended, the DoD Components will accommodate individual expressions of sincerely held beliefs (conscience, moral principles, or religious beliefs) which do not have an adverse impact on military readiness, unit cohesion, good order and discipline, or health and safety. A Service member’s expression of such beliefs may not, in so far as practicable, be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

c. In accordance with Section 533(b) of Public Law 112-239, as implemented by DoD Instruction 1304.28, no Service member may require a chaplain to perform any rite, ritual, or ceremony that is contrary to the conscience, moral principles, or religious beliefs of the chaplain, nor may any Service member discriminate or take any adverse personnel action on the basis of the refusal by the chaplain to comply with such requirements. This does not preclude disciplinary or administrative action for conduct by a Service member that is proscribed by Chapter 47 of Title 10, U.S.C. (the Uniform Code of Military Justice), including actions and speech that threaten good order and discipline.

d. Requests for religious accommodation will be analyzed under the standard in Paragraph 1.2.e. of this issuance using the process in Section 3 of this issuance. Accommodation of practices reflecting a Service member’s sincerely held conscience or moral principles will be governed by the policies of the DoD Component concerned.

e. DoD Components have a compelling governmental interest in mission accomplishment at the individual, unit, and organizational levels, including such necessary elements of mission accomplishment as military readiness, unit cohesion, good order and discipline, and health and safety. In accordance with RFRA and the guidance in this issuance, DoD Components will normally accommodate practices of a Service member based on sincerely held religious belief.

Accommodation includes excusing a Service member from an otherwise applicable military policy, practice, or duty. In accordance with RFRA, if such a military policy, practice or duty substantially burdens a Service member's exercise of religion, accommodation can only be denied if:

- (1) The military policy, practice, or duty is in furtherance of a compelling governmental interest.
- (2) It is the least restrictive means of furthering that compelling governmental interest.

In applying the standard in Paragraphs 1.2.e.(1) and 1.2.e.(2), the burden of proof is placed upon the DoD Component, not the individual requesting the exemption.

f. Requests for the accommodation of religious practices will be reviewed and acted on as soon as possible, in accordance with this issuance and any DoD Component implementing guidance.

g. In accordance with provisions in Paragraphs 1.2.e and 1.2.f of this issuance, immediate commanders may resolve requests for accommodation of religious practices that do not require a waiver of DoD Component policies regarding the wearing of military uniforms, the wearing of religious apparel, or Service grooming, appearance, or body art standards.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)).

Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the ASD(M&RA):

- a. Is responsible for the administration of this issuance and for oversight of the implementation of the policies and procedures it establishes. Issues guidance to the DoD Components, as necessary, concerning the accommodation of religious practices and the implementation of the policies in this issuance.
- b. Acts on Military Department requests regarding limitations on the use, possession, or transportation of peyote cactus for religious practices, in addition to those already listed in Paragraph 3.4. of this issuance, in accordance with Paragraph 3.4.a.(4) of this issuance.

2.2. DOD COMPONENT HEADS OTHER THAN THE SECRETARIES OF THE MILITARY DEPARTMENTS.

The DoD Component heads other than the Secretaries of the Military Departments:

- a. Ensure that requests for the accommodation of religious practices are processed or forwarded for review and action in accordance with this issuance and the implementing regulations and policies of the Military Department and Military Service to which the Service member belongs.
- b. Establish component regulations and policies to address the Service member's sincerely held conscience or moral principles in accordance with Paragraph 1.2.d. of this issuance.

2.3. SECRETARIES OF THE MILITARY DEPARTMENTS.

The Secretaries of the Military Departments:

- a. Adhere to all provisions of this issuance.
- b. Administer their respective programs and update existing regulations and policies, or develop and distribute new guidance, as appropriate, to implement the provisions of this issuance. Implementing issuances will, consistent with this issuance:
 - (1) Establish controls to ensure compliance with established procedures and processing timelines applicable to accommodation requests.
 - (2) Designate appropriate agency officials to review and act on the following:

(a) Requests for the accommodation of religious practices.

(b) Requests for an exemption to an otherwise applicable Military Department or Military Service policy in support of the requesting Service member's exercise of religion or furtherance of religious practices, including, but not limited to, requests pertaining to:

1. Religious apparel, including religious body art.

2. Grooming.

3. Medical practices, including DNA (deoxyribonucleic acid) specimen sampling and immunizations.

(c) Requests from a Service member's command to rescind a previously granted accommodation.

(3) Ensure, to the greatest extent practical, the consistent application of the policies and procedures prescribed by this issuance to similarly situated requests for the accommodation of religious practices throughout their respective Military Departments.

(4) Develop and implement a standards-based approach to the review of, and final action on, requests for the accommodation of religious practices to promote predictable outcomes for the same or similar requests. Such standards will be evidence-based and address commonly requested accommodations. The Military Departments and Military Services will issue or update applicable regulations and policies to authorize officers or officials at the lowest appropriate level of command or supervision to review and take final action on requests for accommodations covered by such standards, in accordance with this issuance. The absence of a standards-based approach to a requested accommodation will not, standing alone, serve as the basis for denying the request. Such a standards-based approach may include:

(a) A list of accommodations of religious practices that may, in ordinary circumstances, be granted to a member serving in a particular military occupational specialty, rating, specialty code, or duty assignment.

(b) Specific guidance on factors to be considered in making individual determinations with regard to a commonly requested or other accommodation of religious practices. Such factors may include those enumerated in Paragraph 3.2.d. of this issuance.

(c). Provide information about the policies and procedures governing the accommodation of religious practices and religious expression to prospective Service members, in accordance with Paragraph 3.2.i. of this issuance.

(d) Request, as appropriate, approval from the ASD(M&RA) regarding limitations on the use, possession, or transportation of peyote cactus for religious practices, in addition to those already listed in Paragraph 3.4. of this issuance, in accordance with Paragraph 3.4.a.(4) of this issuance.

(5) Oversee the development and provision of education and training on the policies and procedures pertaining to the accommodation of religious practices of Service members to:

- (a) Commanders.
- (b) Judge advocates.
- (c) Chaplains.
- (d) Recruiters.
- (e) Other personnel as deemed appropriate by the Military Department or Military Service concerned.

SECTION 3: PROCESSING ACCOMMODATION REQUESTS

3.1. ACCOMMODATION REQUESTS.

a. Service members submitting a request for accommodation will continue to comply with the policy, practice, or duty from which an accommodation has been requested unless and until informed that the request has been approved by the appropriate authority. Exceptions to this requirement may only be granted in exceptional circumstances, in accordance with the implementing regulations and policies promulgated by the Military Department and Military Service concerned.

b. Requests for accommodation submitted by a cadet or midshipman enrolled at a Military Service Academy or in a Senior Reserve Officers' Training Corps program will be addressed in accordance with this issuance and the implementing regulations and policies promulgated by the Military Department and Military Service concerned.

c. Nothing in this issuance precludes disciplinary or administrative action for conduct by a Service member that is prohibited by Chapter 47 of Title 10, U.S.C., also known as "The Uniform Code of Military Justice."

3.2. REVIEW OF AND ACTION ON REQUESTS FOR THE ACCOMMODATION OF RELIGIOUS PRACTICES.

a. Adjudication Authority.

Requests for the accommodation of religious practices that can be approved consistent with Military Department and Military Service regulations or policies, (e.g., current uniform and grooming standards) will be reviewed and acted on at the lowest appropriate level of command or supervision, as provided in the regulations and policies of the Military Department and Military Service concerned and in accordance with this issuance. Requests for the accommodation of religious practices that require the waiver of otherwise applicable Military Department and Military Service regulations and policies will be forwarded to the Secretary of the Military Department concerned. Records concerning requests for accommodations will be maintained in accordance with DoD Instruction 5400.11.

b. Delegation.

The Secretary of a Military Department may delegate, in writing, the authority to act on requests for the accommodation of religious practices that require the waiver of otherwise applicable Military Department and Military Service regulations and policies only as described in Paragraph 3.2.b.(1) through 3.2.b.(3).

(1) Department of the Army.

Delegation may be no lower than the Deputy Chief of Staff, G-1.

(2) Department of the Navy.

Delegation may be no lower than the Chief of Naval Personnel, or the Deputy Commandant of the Marine Corps for Manpower and Reserve Affairs, as appropriate.

(3) Department of the Air Force.

Delegation may be no lower than the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services, or the Deputy Chief of Space Operations for Personnel and Logistics Services, as appropriate.

c. Review and Action Timelines.

Requests for the accommodation of religious practices will be reviewed and acted on as soon as practicable, and no later than the timelines provided in Table 1. Exceptions to this review and action timeline may be granted only in exceptional circumstances, as determined by the regulations and policies of the Military Department and Military Service concerned.

Table 1. Review and Action Timeline for Processing Accommodation Requests

Action to be Taken	For Requests Within the United States	For Requests Outside the United States or for Reserve Component Service Members Not on Active Duty
Action on Requests for Religious Accommodation that Can Be Approved Consistent with Existing Military Department or Military Service Regulations or Policies		
Review and final action completed and written notification to requesting Service member provided	No later than 30 business days from Service member submission	No later than 60 days from Service member submission
Action on Requests for Religious Accommodation that Require the Waiver of Otherwise Applicable Military Department or Military Service Regulations or Policies		
Written request for accommodation received by the Office of the Secretary concerned ¹	No later than 30 days from Service member submission to commander or supervisor	No later than 60 days from Service member submission to commander or supervisor
Review and final action completed and written notification to requesting Service member provided	No later than 60 days from receipt by the Office of the Secretary concerned. ¹ Must be provided to the Service member within 5 days of final action	
1. Unless authority is delegated to a subordinate official in accordance with Paragraph 3.2.b of this issuance.		

d. Factors for Consideration.

Officials charged with making recommendations or taking final action on a Service member's request for the accommodation of religious practices will review each request

individually, considering the full range of facts and circumstances relevant to the specific request. Factors to consider include:

(1) The compelling governmental interest in mission accomplishment, including military readiness, unit cohesion, good order and discipline, or health and safety.

(2) Alternate means available to address the requested accommodation. The means that is least restrictive to the requestor's religious practice and that does not impede a compelling governmental interest will be determinative.

e. Notice of Resolution.

A Service member will be promptly informed of the approval or disapproval of his or her request for accommodation in accordance with Table 1.

(1) A Service member's request for the accommodation of religious practices may be granted in whole or in part. The Service member will be informed in writing of any conditions or limitations placed on the grant that are necessary to meet the DoD's compelling governmental interest in mission accomplishment, such as, for example, conditions related to:

(a) Deployment;

(b) Health and safety issues relative to particular assignments or types of assignments; or

(c) Training events or ceremonial occasions that require a Service member to conform to military standards to protect health and safety, or maintain good order and discipline.

(2) A Service member whose request is granted in part will be informed, in writing, of the specific elements of that approval.

f. Administrative Appeal Process.

The regulations and policies of a Military Department or Military Service implementing this issuance will provide a process for Service members to appeal the denial of a request for accommodation of religious practices, or any condition on such accommodation. Appeals will be sent to an official in the chain of command or chain of supervision above the officer or official who took final action on the request. No further administrative appeal will be available for a decision made by the Secretary of the Military Department.

g. Accommodation Duration and Proposals to Rescind a Granted Accommodation.

An approved request for accommodation will remain in effect during follow-on duties, assignments, or locations, and for the duration of a Service member's military career, including after promotions, reenlistment or commissioning, unless and until rescinded in accordance with the requirements of this issuance.

(1) In accordance with this issuance and the implementing policies and regulations of the Military Department and Military Service concerned, an approved accommodation may be subject to review and rescission, in whole or in part, at any time, based upon a determination that the circumstances under which the grant of accommodation was approved have changed (e.g., deployment, new duties, or other material change in circumstances). The Military Department or Military Service concerned—not the individual Service member—bears the burden of initiating a proposal to review and rescind an accommodation previously granted.

(2) When a Military Department or Military Service initiates a proposal to review and rescind an accommodation previously granted, an appropriate officer or official will forward a written summary of the nature of the materially changed circumstances that require such review and repeal to the Service member concerned for comment.

(a) The Service member will be:

1. Allotted no fewer than 10 days to review and comment on the proposed rescission of the accommodation.

2. Afforded the opportunity to review and comment on any endorsements of this proposal from the chain of command.

3. Afforded, subject to security classification requirements, the opportunity to review and comment on any documents or attachments to the proposal or subsequent endorsements.

(b) Any comments submitted by the Service member will be forwarded for consideration by the appropriate official authorized to act on the matter, in accordance with this issuance.

(3) A proposal to review and rescind a previously approved accommodation must be acted on at a level of authority no lower than that at which the accommodation was granted, in accordance with this issuance and the regulations and policies of the Military Department and Military Service concerned implementing this issuance. The standard for repealing a previously granted accommodation, in whole or in part, is the same as the standard for denying a request for the accommodation of religious practices in the first place, and the same factors must be considered, as appropriate.

h. Accommodation Modification or Suspense Under Exigent Circumstances.

Under exigent circumstances and in furtherance of a compelling governmental interest due to operational necessity, when time is of the essence and no less restrictive means of religious accommodation are available, a commander at a level determined by the Military Department or Military Service concerned may temporarily modify or suspend accommodations granted, upon notice to the Service member concerned and without benefit of appeal. The level of this commander must be no lower than the officer exercising Summary Court-Martial Convening Authority over a Service member who has previously been granted an accommodation of religious practices.

(1) To the extent practicable, the commander concerned, if not a general officer or flag officer, or member of the senior executive service, will notify, in advance, the first general officer or flag officer, or member of the senior executive service, as appropriate, in the affected Service member's chain of command or supervision, of the commander's intent to modify or suspend a previously granted accommodation. When such advance notice is not practicable, the commander concerned will notify the appropriate general officer or flag officer, or member of the senior executive service, as appropriate, as soon as circumstances permit.

(2) The Service member concerned may be required to immediately comply with the modification or suspension of an accommodation, if circumstances so warrant.

(3) The modification or suspension of the accommodation will apply for only the minimum period required by the circumstances.

i. Pre-accession Procedures.

(1) Applicants to the Military Services will be informed of the policies and procedures for the accommodation of religious practices in accordance with this issuance, and as implemented by the Military Department or Military Service concerned. These applicants include individuals who apply for:

- (a) A commissioning program;
- (b) A warrant officer program;
- (c) Enlistment or entry in the Military Services;
- (d) Reenlistment (or reentry) in the Military Services;
- (e) Enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program (including Military Service Academy preparatory schools); or
- (f) The award of a scholarship or other benefit that requires a commitment to serve as a Service member.

(2) The Military Departments and Military Services will develop processes for the review and action on pre-accession requests for the accommodation of religious practices and establish those processes in appropriate regulations and policies. Such processes must provide applicants the opportunity to submit a request for accommodation of religious practices, and receive a final decision on that request, before participation in the commissioning program, warrant officer program, enlistment, reenlistment, enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program, or award of such scholarship or benefit. The review and processing of such requests must be consistent with this issuance.

3.3. REQUIRED PRINCIPLES AND RULES FOR MILITARY REGULATIONS AND POLICIES.

DoD Component regulations and policies must include the following principles and rules:

a. Worship practices, holy days, and Sabbath or similar religious observance requests will be accommodated to the extent possible, consistent with mission accomplishment and will normally not require a religious accommodation request.

b. A Service member's religious practices will be considered in acting on a request for separate rations. Accommodation requests for separate rations may be adjudicated at the command level.

c. A Service member's religious practices will be considered in acting on a request for exemption from required medical practices. Action on a request for medical exemption must be consistent with mission accomplishment, including consideration of potential medical risks to other persons comprising the unit or organization.

d. The following rules govern the wear of items of religious apparel:

(1) In accordance with Section 774 of Title 10, U.S.C., Service members may wear items of religious apparel while in uniform, except in circumstances in which wearing the item would interfere with the performance of the member's military duties or the item of apparel is not neat and conservative. The Military Departments and Military Services will prescribe regulations governing the wear of such items. Factors that may be considered in determining whether an item of religious apparel interferes with military duties include, but are not limited to, whether the item:

(a) Impairs the safe and effective operation of weapons, military equipment, or machinery.

(b) Poses a health or safety hazard to the Service member wearing the religious apparel or to others.

(c) Interferes with the wear or proper function of special or protective clothing or equipment (e.g., helmets, protective masks, wet suits).

(d) Otherwise impairs mission accomplishment.

(2) Religious items or articles not visible or apparent may be worn with the uniform, provided they do not interfere with the performance of the Service member's military duties, as described in Paragraph 3.3.d.(1) of this issuance, and do not interfere with the proper wear of any authorized article of the uniform.

(3) Under regulations and policies of the Military Department and Military Service concerned, religious headgear may be worn with the uniform whenever a military cap, hat, or other headgear is not prescribed. Religious headgear may also be worn underneath prescribed

military headgear, provided it does not interfere with the proper wear, function, or appearance of the headgear, as described in Paragraph 3.2.d.(1).

(4) Notwithstanding any other provision in this issuance, while conducting worship services and during the performance of rites and rituals associated with his or her religious faith, a chaplain may wear with the military uniform any required religious apparel or accouterments associated with the traditions or practices of his or her religious faith.

(5) In evaluating requests for the accommodation of religious practices related to body art, these factors will be among those considered:

(a) Whether the body art is neat and conservative.

(b) The location of the body art, including whether the body art is visible when the Service member is wearing the military uniform.

3.4. ADDITIONAL GUIDANCE REGARDING THE USE OF PEYOTE.

a. There are additional rules governing the use of peyote in religious practices. In accordance with Section 1996a of Title 42, U.S.C. (also known as the “American Indian Religious Freedom Act Amendments of 1994”), Service members who are members of Indian tribes as defined in that statute may use, possess, or transport the peyote cactus as a religious sacrament in connection with the bona fide practice of a traditional Indian religion, and will not be penalized or discriminated against on the basis of such use, possession, or transportation. Reasonable limitations on the use, possession, transportation, or distribution of peyote may be imposed to promote military readiness, promote safety, or comply with international law or laws of other countries. The Secretaries of the Military Departments will prescribe regulations authorizing the use, possession, or transportation of peyote cactus and imposing limitations on such use, possession, or transportation including, but not limited to, the following:

(1) Peyote will not be used on duty or within 24 hours before scheduled military duty.

(2) Peyote may be possessed in amulet form, not for ingestion, and such an amulet may be worn as an item of religious apparel subject to Military Service uniform regulations. Otherwise, peyote will not be used, possessed, distributed, or introduced aboard military vehicles, vessels, or aircraft or, except when permitted by the installation commander, on military installations.

(3) A Service member who has used peyote will promptly notify their commander upon return to duty after such use.

(a) The Secretary of the Military Department concerned may require pre-use notification by Service members performing designated duties when it is in the interest of military readiness or safety to notify commanders of a Service member’s intent to use peyote.

(b) Upon notification of use or intended use of peyote, the Service member will provide documentation verifying membership in an Indian tribe as defined by Section 1996a(c)(2) of Title 42, U.S.C.

(4) The establishment by the Secretary of a Military Department of limitations on the use, possession, or transportation of peyote cactus, in addition to those already listed in Paragraph 3.4. of this issuance, must be consistent with RFRA, the Free Exercise Clause of the First Amendment to the Constitution of the United States, any other applicable statutes such as the American Indian Religious Freedom Act Amendments of 1994, and this issuance. Any such additional limitations must be approved, in advance, by the ASD(M&RA). Before approving any additional limitation proposed by the Secretary of a Military Department, the ASD(M&RA) will consult with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice, pursuant to Section 1996a(b)(7) of Title 42, U.S.C.

b. Requests by Service members for the accommodation of a religious practice involving the use, possession, or transportation of any substance other than peyote, the use, possession, transportation, manufacturing, or distribution of which is prohibited by law or policy, will be forwarded to the Secretary of the Military Department concerned for resolution. Before taking final action on any such accommodation request, the Secretary of the Military Department concerned will notify the ASD(M&RA).

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
ASD(M&RA)	Assistant Secretary of Defense for Manpower and Reserve Affairs
RFRA	Religious Freedom Restoration Act
U.S.C.	United States Code

G.2. DEFINITIONS.

These terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
compelling government interest	In the DoD, a military requirement that is essential to accomplishment of the military mission. In accordance with Paragraph 1.2.e. of this issuance, DoD Components have a compelling governmental interest in mission accomplishment at the individual, unit, and organizational levels, including such necessary elements of mission accomplishment as military readiness, unit cohesion, good order and discipline, and health and safety.
neat and conservative	<p>In the context of the wear of a military uniform, items of religious apparel that:</p> <p style="padding-left: 40px;">Are discreet, tidy, and not dissonant or showy in style, size, design, brightness, or color.</p> <p style="padding-left: 40px;">Do not replace or interfere with the proper wear of any authorized article of the uniform.</p> <p style="padding-left: 40px;">Are not temporarily or permanently affixed or appended to any authorized article of the uniform.</p>
pre-accession	The period of time before a prospective Service member's participation in a commissioning program, warrant officer program, enlistment (or entry), reenlistment (or reentry), or enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program.

TERM	DEFINITION
religious apparel	Articles of clothing, jewelry or other such accoutrements the wearing of which is part of the observance of the religious faith practiced by the Service member.
religious body art	Temporary or permanent tattoos, piercings through the skin or body parts, or other modifications to the body that are a part of a Service member's religious practice.
religious practice	An action, behavior, or course of conduct constituting individual expressions of religious beliefs, whether or not compelled by, or central to, the religion concerned.
substantial burden	<p>A governmental act is a substantial burden to a Service member's exercise of religion if it:</p> <ul style="list-style-type: none">Requires participation in an activity prohibited by a sincerely held religious belief;Prevents participation in conduct motivated by a sincerely held religious belief; orPlaces substantial pressure on a Service member to engage in conduct contrary to a sincerely held religious belief.

REFERENCES

DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008

DoD Instruction 1304.28, “Guidance for the Appointment of Chaplains for the Military Departments,” June 11, 2004, as amended

DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019

Section 533 of Public Law 112-239, the “National Defense Authorization Act for Fiscal Year 2013,” December 18, 2012, as amended

United States Code, Title 10

United States Code, Title 42

United States Constitution



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser N1/116417
2 Dec 21

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)
To: AWS1 Aaron W. Crabb, USN
Via: Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS

Ref: (a) 42 U.S.C. §2000bb-1
(b) DoD Instruction 1300.17 of 1 September 2020
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) MILPERSMAN 1730-020
(f) United States Attorney General memo of 6 Oct 17
(g) Your ltr of 7 Sep 21 w/ends
(h) BUMED ltr 6320 Ser M44/21UM42751 of 22 Nov 21

1. Pursuant to references (a) through (h), your request for religious accommodation through waiver of immunization requirements is disapproved. You must receive all required vaccines. However, you are free to request from your healthcare provider alternative vaccines that are available and meet the Navy's immunization requirements, as determined by a credentialed military healthcare provider. You are free to choose which COVID-19 vaccine to take. If you choose a COVID-19 vaccine that requires two doses, you must receive your first dose within five calendar (5) days upon receipt of this letter and complete the series as prescribed. If you choose a one-dose vaccine you must receive the vaccine within five calendar (5) days upon receipt of this letter.

2. In line with references (b) through (d), I am designated as the approval authority for requests for religious accommodation.

3. Reference (a), the Religious Freedom Restoration Act (RFRA), states that the Government may substantially burden an individual's exercise of religion only if it demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Reference (b) incorporates the RFRA and notes that the Government has a compelling interest in mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels. Additionally, unless it will have an adverse impact on mission accomplishment, including military readiness, unit cohesion and good order and discipline, the Navy will accommodate individual expressions of sincerely held beliefs of Sailors. Reference (f) emphasizes that only those interests of the highest order can overbalance legitimate claims to the free exercise of religion.

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS

4. All requests for accommodation of religious practices are assessed on a case-by-case basis. In line with references (b) and (c), determination of a request for religious accommodation requires consideration of the following factors:

- a. Impact on military readiness, unit cohesion, good order and discipline, health and safety
- b. Religious importance of the request
- c. Cumulative impact of repeatedly granting similar requests
- d. Whether there are alternatives available to meet the requested accommodation and
- e. How other such requests have been treated

5. In making this decision, I reviewed reference (g), including the endorsements from your chain of command, the local chaplain and the advice of Chief, Bureau of Medicine and Surgery in reference (h).

a. A waiver of immunizations would have a predictable and detrimental effect on your readiness and the readiness of the Sailors who serve alongside you in both operational and non-operational (including training) environments. Primary prevention of disease through immunizations has been a key enabler for maintaining force health and avoiding disease-related non-battle injury. Granting your request will have a direct and foreseeable negative impact on the compelling Government interests of military readiness and health of the force.

b. While serving in the U.S. Navy, you will inevitably be expected to live and work in close proximity with your shipmates. I find that disapproval of your request for a waiver of immunization requirements is the least restrictive means available to preserve the Department of Defense's compelling interest in military readiness, mission accomplishment and the health and safety of military Service Members.

6. The Navy is a specialized community governed by a discipline separate from that of the rest of society. While every Sailor is welcome to express a religion of choice or none at all, our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.

(b) (6)

JOHN B. NOWELL, JR

Copy to:
OPNAV (N131, N0975)
BUMED
CVW-2



DoD INSTRUCTION 1300.17

RELIGIOUS LIBERTY IN THE MILITARY SERVICES

Originating Component:	Office of the Under Secretary of Defense for Personnel and Readiness
Effective:	September 1, 2020
Releasability:	Cleared for public release. Available on the Directives Division Website at https://www.esd.whs.mil/DD/ .
Reissues and Cancels:	DoD Instruction 1300.17, "Accommodation of Religious Practices Within the Military Services," February 10, 2009, as amended
Incorporates and Cancels:	Assistant Secretary of Defense for Force Management Policy Memorandum, "Sacramental Use of Peyote by Native American Service Members," April 25, 1997
Approved by:	Matthew P. Donovan, Under Secretary of Defense for Personnel and Readiness

Purpose: In accordance with the authority in DoD Directive 5124.02, this issuance:

- Establishes DoD policy in furtherance of the Free Exercise Clause of the First Amendment to the Constitution of the United States, recognizing that Service members have the right to observe the tenets of their religion, or to observe no religion at all.
- Establishes policy, assigns responsibilities, and provides procedures for the accommodation of religious practices of Service members.
- Establishes DoD policy on the accommodation of individual expressions of sincerely held beliefs (conscience, moral principles, or religious beliefs), which do not have an adverse impact on military readiness, unit cohesion, good order and discipline, or health and safety.
- Establishes DoD policy providing that an expression of sincerely held beliefs (conscience, moral principles, or religious beliefs) may not, in so far as practicable, be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.
- Implements requirements in Section 2000bb-1 of Title 42, United States Code (U.S.C), also known as "The Religious Freedom Restoration Act" (RFRA), and other laws applicable to the accommodation

of religious practices for DoD to provide, in accordance with the RFRA, that DoD Components will normally accommodate practices of a Service member based on a sincerely held religious belief.

- Requires DoD Components to oversee the development and provision of education and training on the policies and procedures pertaining to the accommodation of religious practices of Service members to commanders, judge advocates, chaplains, recruiters, and other personnel as deemed appropriate by the Military Department or Military Service concerned.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

b. The definitions, policies, procedures, and assignments of responsibility prescribed in this issuance apply only to the accommodation of religious practices of Service members and in no other context.

1.2. POLICY.

a. Pursuant to the Free Exercise Clause of the First Amendment to the United States Constitution, Service members have the right to observe the tenets of their religion or to observe no religion at all, as provided in this issuance.

b. In accordance with Section 533(a)(1) of Public Law 112-239, as amended, the DoD Components will accommodate individual expressions of sincerely held beliefs (conscience, moral principles, or religious beliefs) which do not have an adverse impact on military readiness, unit cohesion, good order and discipline, or health and safety. A Service member’s expression of such beliefs may not, in so far as practicable, be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

c. In accordance with Section 533(b) of Public Law 112-239, as implemented by DoD Instruction 1304.28, no Service member may require a chaplain to perform any rite, ritual, or ceremony that is contrary to the conscience, moral principles, or religious beliefs of the chaplain, nor may any Service member discriminate or take any adverse personnel action on the basis of the refusal by the chaplain to comply with such requirements. This does not preclude disciplinary or administrative action for conduct by a Service member that is proscribed by Chapter 47 of Title 10, U.S.C. (the Uniform Code of Military Justice), including actions and speech that threaten good order and discipline.

d. Requests for religious accommodation will be analyzed under the standard in Paragraph 1.2.e. of this issuance using the process in Section 3 of this issuance. Accommodation of practices reflecting a Service member’s sincerely held conscience or moral principles will be governed by the policies of the DoD Component concerned.

e. DoD Components have a compelling governmental interest in mission accomplishment at the individual, unit, and organizational levels, including such necessary elements of mission accomplishment as military readiness, unit cohesion, good order and discipline, and health and safety. In accordance with RFRA and the guidance in this issuance, DoD Components will normally accommodate practices of a Service member based on sincerely held religious belief.

Accommodation includes excusing a Service member from an otherwise applicable military policy, practice, or duty. In accordance with RFRA, if such a military policy, practice or duty substantially burdens a Service member's exercise of religion, accommodation can only be denied if:

- (1) The military policy, practice, or duty is in furtherance of a compelling governmental interest.
- (2) It is the least restrictive means of furthering that compelling governmental interest.

In applying the standard in Paragraphs 1.2.e.(1) and 1.2.e.(2), the burden of proof is placed upon the DoD Component, not the individual requesting the exemption.

f. Requests for the accommodation of religious practices will be reviewed and acted on as soon as possible, in accordance with this issuance and any DoD Component implementing guidance.

g. In accordance with provisions in Paragraphs 1.2.e and 1.2.f of this issuance, immediate commanders may resolve requests for accommodation of religious practices that do not require a waiver of DoD Component policies regarding the wearing of military uniforms, the wearing of religious apparel, or Service grooming, appearance, or body art standards.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)).

Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the ASD(M&RA):

- a. Is responsible for the administration of this issuance and for oversight of the implementation of the policies and procedures it establishes. Issues guidance to the DoD Components, as necessary, concerning the accommodation of religious practices and the implementation of the policies in this issuance.
- b. Acts on Military Department requests regarding limitations on the use, possession, or transportation of peyote cactus for religious practices, in addition to those already listed in Paragraph 3.4. of this issuance, in accordance with Paragraph 3.4.a.(4) of this issuance.

2.2. DOD COMPONENT HEADS OTHER THAN THE SECRETARIES OF THE MILITARY DEPARTMENTS.

The DoD Component heads other than the Secretaries of the Military Departments:

- a. Ensure that requests for the accommodation of religious practices are processed or forwarded for review and action in accordance with this issuance and the implementing regulations and policies of the Military Department and Military Service to which the Service member belongs.
- b. Establish component regulations and policies to address the Service member's sincerely held conscience or moral principles in accordance with Paragraph 1.2.d. of this issuance.

2.3. SECRETARIES OF THE MILITARY DEPARTMENTS.

The Secretaries of the Military Departments:

- a. Adhere to all provisions of this issuance.
- b. Administer their respective programs and update existing regulations and policies, or develop and distribute new guidance, as appropriate, to implement the provisions of this issuance. Implementing issuances will, consistent with this issuance:
 - (1) Establish controls to ensure compliance with established procedures and processing timelines applicable to accommodation requests.
 - (2) Designate appropriate agency officials to review and act on the following:

(a) Requests for the accommodation of religious practices.

(b) Requests for an exemption to an otherwise applicable Military Department or Military Service policy in support of the requesting Service member's exercise of religion or furtherance of religious practices, including, but not limited to, requests pertaining to:

1. Religious apparel, including religious body art.

2. Grooming.

3. Medical practices, including DNA (deoxyribonucleic acid) specimen sampling and immunizations.

(c) Requests from a Service member's command to rescind a previously granted accommodation.

(3) Ensure, to the greatest extent practical, the consistent application of the policies and procedures prescribed by this issuance to similarly situated requests for the accommodation of religious practices throughout their respective Military Departments.

(4) Develop and implement a standards-based approach to the review of, and final action on, requests for the accommodation of religious practices to promote predictable outcomes for the same or similar requests. Such standards will be evidence-based and address commonly requested accommodations. The Military Departments and Military Services will issue or update applicable regulations and policies to authorize officers or officials at the lowest appropriate level of command or supervision to review and take final action on requests for accommodations covered by such standards, in accordance with this issuance. The absence of a standards-based approach to a requested accommodation will not, standing alone, serve as the basis for denying the request. Such a standards-based approach may include:

(a) A list of accommodations of religious practices that may, in ordinary circumstances, be granted to a member serving in a particular military occupational specialty, rating, specialty code, or duty assignment.

(b) Specific guidance on factors to be considered in making individual determinations with regard to a commonly requested or other accommodation of religious practices. Such factors may include those enumerated in Paragraph 3.2.d. of this issuance.

(c). Provide information about the policies and procedures governing the accommodation of religious practices and religious expression to prospective Service members, in accordance with Paragraph 3.2.i. of this issuance.

(d) Request, as appropriate, approval from the ASD(M&RA) regarding limitations on the use, possession, or transportation of peyote cactus for religious practices, in addition to those already listed in Paragraph 3.4. of this issuance, in accordance with Paragraph 3.4.a.(4) of this issuance.

(5) Oversee the development and provision of education and training on the policies and procedures pertaining to the accommodation of religious practices of Service members to:

- (a) Commanders.
- (b) Judge advocates.
- (c) Chaplains.
- (d) Recruiters.
- (e) Other personnel as deemed appropriate by the Military Department or Military Service concerned.

SECTION 3: PROCESSING ACCOMMODATION REQUESTS

3.1. ACCOMMODATION REQUESTS.

a. Service members submitting a request for accommodation will continue to comply with the policy, practice, or duty from which an accommodation has been requested unless and until informed that the request has been approved by the appropriate authority. Exceptions to this requirement may only be granted in exceptional circumstances, in accordance with the implementing regulations and policies promulgated by the Military Department and Military Service concerned.

b. Requests for accommodation submitted by a cadet or midshipman enrolled at a Military Service Academy or in a Senior Reserve Officers' Training Corps program will be addressed in accordance with this issuance and the implementing regulations and policies promulgated by the Military Department and Military Service concerned.

c. Nothing in this issuance precludes disciplinary or administrative action for conduct by a Service member that is prohibited by Chapter 47 of Title 10, U.S.C., also known as "The Uniform Code of Military Justice."

3.2. REVIEW OF AND ACTION ON REQUESTS FOR THE ACCOMMODATION OF RELIGIOUS PRACTICES.

a. Adjudication Authority.

Requests for the accommodation of religious practices that can be approved consistent with Military Department and Military Service regulations or policies, (e.g., current uniform and grooming standards) will be reviewed and acted on at the lowest appropriate level of command or supervision, as provided in the regulations and policies of the Military Department and Military Service concerned and in accordance with this issuance. Requests for the accommodation of religious practices that require the waiver of otherwise applicable Military Department and Military Service regulations and policies will be forwarded to the Secretary of the Military Department concerned. Records concerning requests for accommodations will be maintained in accordance with DoD Instruction 5400.11.

b. Delegation.

The Secretary of a Military Department may delegate, in writing, the authority to act on requests for the accommodation of religious practices that require the waiver of otherwise applicable Military Department and Military Service regulations and policies only as described in Paragraph 3.2.b.(1) through 3.2.b.(3).

(1) Department of the Army.

Delegation may be no lower than the Deputy Chief of Staff, G-1.

(2) Department of the Navy.

Delegation may be no lower than the Chief of Naval Personnel, or the Deputy Commandant of the Marine Corps for Manpower and Reserve Affairs, as appropriate.

(3) Department of the Air Force.

Delegation may be no lower than the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services, or the Deputy Chief of Space Operations for Personnel and Logistics Services, as appropriate.

c. Review and Action Timelines.

Requests for the accommodation of religious practices will be reviewed and acted on as soon as practicable, and no later than the timelines provided in Table 1. Exceptions to this review and action timeline may be granted only in exceptional circumstances, as determined by the regulations and policies of the Military Department and Military Service concerned.

Table 1. Review and Action Timeline for Processing Accommodation Requests

Action to be Taken	For Requests Within the United States	For Requests Outside the United States or for Reserve Component Service Members Not on Active Duty
Action on Requests for Religious Accommodation that Can Be Approved Consistent with Existing Military Department or Military Service Regulations or Policies		
Review and final action completed and written notification to requesting Service member provided	No later than 30 business days from Service member submission	No later than 60 days from Service member submission
Action on Requests for Religious Accommodation that Require the Waiver of Otherwise Applicable Military Department or Military Service Regulations or Policies		
Written request for accommodation received by the Office of the Secretary concerned ¹	No later than 30 days from Service member submission to commander or supervisor	No later than 60 days from Service member submission to commander or supervisor
Review and final action completed and written notification to requesting Service member provided	No later than 60 days from receipt by the Office of the Secretary concerned. ¹ Must be provided to the Service member within 5 days of final action	
	1. Unless authority is delegated to a subordinate official in accordance with Paragraph 3.2.b of this issuance.	

d. Factors for Consideration.

Officials charged with making recommendations or taking final action on a Service member's request for the accommodation of religious practices will review each request

individually, considering the full range of facts and circumstances relevant to the specific request. Factors to consider include:

(1) The compelling governmental interest in mission accomplishment, including military readiness, unit cohesion, good order and discipline, or health and safety.

(2) Alternate means available to address the requested accommodation. The means that is least restrictive to the requestor's religious practice and that does not impede a compelling governmental interest will be determinative.

e. Notice of Resolution.

A Service member will be promptly informed of the approval or disapproval of his or her request for accommodation in accordance with Table 1.

(1) A Service member's request for the accommodation of religious practices may be granted in whole or in part. The Service member will be informed in writing of any conditions or limitations placed on the grant that are necessary to meet the DoD's compelling governmental interest in mission accomplishment, such as, for example, conditions related to:

(a) Deployment;

(b) Health and safety issues relative to particular assignments or types of assignments; or

(c) Training events or ceremonial occasions that require a Service member to conform to military standards to protect health and safety, or maintain good order and discipline.

(2) A Service member whose request is granted in part will be informed, in writing, of the specific elements of that approval.

f. Administrative Appeal Process.

The regulations and policies of a Military Department or Military Service implementing this issuance will provide a process for Service members to appeal the denial of a request for accommodation of religious practices, or any condition on such accommodation. Appeals will be sent to an official in the chain of command or chain of supervision above the officer or official who took final action on the request. No further administrative appeal will be available for a decision made by the Secretary of the Military Department.

g. Accommodation Duration and Proposals to Rescind a Granted Accommodation.

An approved request for accommodation will remain in effect during follow-on duties, assignments, or locations, and for the duration of a Service member's military career, including after promotions, reenlistment or commissioning, unless and until rescinded in accordance with the requirements of this issuance.

(1) In accordance with this issuance and the implementing policies and regulations of the Military Department and Military Service concerned, an approved accommodation may be subject to review and rescission, in whole or in part, at any time, based upon a determination that the circumstances under which the grant of accommodation was approved have changed (e.g., deployment, new duties, or other material change in circumstances). The Military Department or Military Service concerned—not the individual Service member—bears the burden of initiating a proposal to review and rescind an accommodation previously granted.

(2) When a Military Department or Military Service initiates a proposal to review and rescind an accommodation previously granted, an appropriate officer or official will forward a written summary of the nature of the materially changed circumstances that require such review and repeal to the Service member concerned for comment.

(a) The Service member will be:

1. Allotted no fewer than 10 days to review and comment on the proposed rescission of the accommodation.

2. Afforded the opportunity to review and comment on any endorsements of this proposal from the chain of command.

3. Afforded, subject to security classification requirements, the opportunity to review and comment on any documents or attachments to the proposal or subsequent endorsements.

(b) Any comments submitted by the Service member will be forwarded for consideration by the appropriate official authorized to act on the matter, in accordance with this issuance.

(3) A proposal to review and rescind a previously approved accommodation must be acted on at a level of authority no lower than that at which the accommodation was granted, in accordance with this issuance and the regulations and policies of the Military Department and Military Service concerned implementing this issuance. The standard for repealing a previously granted accommodation, in whole or in part, is the same as the standard for denying a request for the accommodation of religious practices in the first place, and the same factors must be considered, as appropriate.

h. Accommodation Modification or Suspense Under Exigent Circumstances.

Under exigent circumstances and in furtherance of a compelling governmental interest due to operational necessity, when time is of the essence and no less restrictive means of religious accommodation are available, a commander at a level determined by the Military Department or Military Service concerned may temporarily modify or suspend accommodations granted, upon notice to the Service member concerned and without benefit of appeal. The level of this commander must be no lower than the officer exercising Summary Court-Martial Convening Authority over a Service member who has previously been granted an accommodation of religious practices.

(1) To the extent practicable, the commander concerned, if not a general officer or flag officer, or member of the senior executive service, will notify, in advance, the first general officer or flag officer, or member of the senior executive service, as appropriate, in the affected Service member's chain of command or supervision, of the commander's intent to modify or suspend a previously granted accommodation. When such advance notice is not practicable, the commander concerned will notify the appropriate general officer or flag officer, or member of the senior executive service, as appropriate, as soon as circumstances permit.

(2) The Service member concerned may be required to immediately comply with the modification or suspension of an accommodation, if circumstances so warrant.

(3) The modification or suspension of the accommodation will apply for only the minimum period required by the circumstances.

i. Pre-accession Procedures.

(1) Applicants to the Military Services will be informed of the policies and procedures for the accommodation of religious practices in accordance with this issuance, and as implemented by the Military Department or Military Service concerned. These applicants include individuals who apply for:

- (a) A commissioning program;
- (b) A warrant officer program;
- (c) Enlistment or entry in the Military Services;
- (d) Reenlistment (or reentry) in the Military Services;
- (e) Enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program (including Military Service Academy preparatory schools); or
- (f) The award of a scholarship or other benefit that requires a commitment to serve as a Service member.

(2) The Military Departments and Military Services will develop processes for the review and action on pre-accession requests for the accommodation of religious practices and establish those processes in appropriate regulations and policies. Such processes must provide applicants the opportunity to submit a request for accommodation of religious practices, and receive a final decision on that request, before participation in the commissioning program, warrant officer program, enlistment, reenlistment, enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program, or award of such scholarship or benefit. The review and processing of such requests must be consistent with this issuance.

3.3. REQUIRED PRINCIPLES AND RULES FOR MILITARY REGULATIONS AND POLICIES.

DoD Component regulations and policies must include the following principles and rules:

a. Worship practices, holy days, and Sabbath or similar religious observance requests will be accommodated to the extent possible, consistent with mission accomplishment and will normally not require a religious accommodation request.

b. A Service member's religious practices will be considered in acting on a request for separate rations. Accommodation requests for separate rations may be adjudicated at the command level.

c. A Service member's religious practices will be considered in acting on a request for exemption from required medical practices. Action on a request for medical exemption must be consistent with mission accomplishment, including consideration of potential medical risks to other persons comprising the unit or organization.

d. The following rules govern the wear of items of religious apparel:

(1) In accordance with Section 774 of Title 10, U.S.C., Service members may wear items of religious apparel while in uniform, except in circumstances in which wearing the item would interfere with the performance of the member's military duties or the item of apparel is not neat and conservative. The Military Departments and Military Services will prescribe regulations governing the wear of such items. Factors that may be considered in determining whether an item of religious apparel interferes with military duties include, but are not limited to, whether the item:

(a) Impairs the safe and effective operation of weapons, military equipment, or machinery.

(b) Poses a health or safety hazard to the Service member wearing the religious apparel or to others.

(c) Interferes with the wear or proper function of special or protective clothing or equipment (e.g., helmets, protective masks, wet suits).

(d) Otherwise impairs mission accomplishment.

(2) Religious items or articles not visible or apparent may be worn with the uniform, provided they do not interfere with the performance of the Service member's military duties, as described in Paragraph 3.3.d.(1) of this issuance, and do not interfere with the proper wear of any authorized article of the uniform.

(3) Under regulations and policies of the Military Department and Military Service concerned, religious headgear may be worn with the uniform whenever a military cap, hat, or other headgear is not prescribed. Religious headgear may also be worn underneath prescribed

military headgear, provided it does not interfere with the proper wear, function, or appearance of the headgear, as described in Paragraph 3.2.d.(1).

(4) Notwithstanding any other provision in this issuance, while conducting worship services and during the performance of rites and rituals associated with his or her religious faith, a chaplain may wear with the military uniform any required religious apparel or accouterments associated with the traditions or practices of his or her religious faith.

(5) In evaluating requests for the accommodation of religious practices related to body art, these factors will be among those considered:

(a) Whether the body art is neat and conservative.

(b) The location of the body art, including whether the body art is visible when the Service member is wearing the military uniform.

3.4. ADDITIONAL GUIDANCE REGARDING THE USE OF PEYOTE.

a. There are additional rules governing the use of peyote in religious practices. In accordance with Section 1996a of Title 42, U.S.C. (also known as the “American Indian Religious Freedom Act Amendments of 1994”), Service members who are members of Indian tribes as defined in that statute may use, possess, or transport the peyote cactus as a religious sacrament in connection with the bona fide practice of a traditional Indian religion, and will not be penalized or discriminated against on the basis of such use, possession, or transportation. Reasonable limitations on the use, possession, transportation, or distribution of peyote may be imposed to promote military readiness, promote safety, or comply with international law or laws of other countries. The Secretaries of the Military Departments will prescribe regulations authorizing the use, possession, or transportation of peyote cactus and imposing limitations on such use, possession, or transportation including, but not limited to, the following:

(1) Peyote will not be used on duty or within 24 hours before scheduled military duty.

(2) Peyote may be possessed in amulet form, not for ingestion, and such an amulet may be worn as an item of religious apparel subject to Military Service uniform regulations. Otherwise, peyote will not be used, possessed, distributed, or introduced aboard military vehicles, vessels, or aircraft or, except when permitted by the installation commander, on military installations.

(3) A Service member who has used peyote will promptly notify their commander upon return to duty after such use.

(a) The Secretary of the Military Department concerned may require pre-use notification by Service members performing designated duties when it is in the interest of military readiness or safety to notify commanders of a Service member’s intent to use peyote.

(b) Upon notification of use or intended use of peyote, the Service member will provide documentation verifying membership in an Indian tribe as defined by Section 1996a(c)(2) of Title 42, U.S.C.

(4) The establishment by the Secretary of a Military Department of limitations on the use, possession, or transportation of peyote cactus, in addition to those already listed in Paragraph 3.4. of this issuance, must be consistent with RFRA, the Free Exercise Clause of the First Amendment to the Constitution of the United States, any other applicable statutes such as the American Indian Religious Freedom Act Amendments of 1994, and this issuance. Any such additional limitations must be approved, in advance, by the ASD(M&RA). Before approving any additional limitation proposed by the Secretary of a Military Department, the ASD(M&RA) will consult with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice, pursuant to Section 1996a(b)(7) of Title 42, U.S.C.

b. Requests by Service members for the accommodation of a religious practice involving the use, possession, or transportation of any substance other than peyote, the use, possession, transportation, manufacturing, or distribution of which is prohibited by law or policy, will be forwarded to the Secretary of the Military Department concerned for resolution. Before taking final action on any such accommodation request, the Secretary of the Military Department concerned will notify the ASD(M&RA).

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
ASD(M&RA)	Assistant Secretary of Defense for Manpower and Reserve Affairs
RFRA	Religious Freedom Restoration Act
U.S.C.	United States Code

G.2. DEFINITIONS.

These terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
compelling government interest	In the DoD, a military requirement that is essential to accomplishment of the military mission. In accordance with Paragraph 1.2.e. of this issuance, DoD Components have a compelling governmental interest in mission accomplishment at the individual, unit, and organizational levels, including such necessary elements of mission accomplishment as military readiness, unit cohesion, good order and discipline, and health and safety.
neat and conservative	<p>In the context of the wear of a military uniform, items of religious apparel that:</p> <p>Are discreet, tidy, and not dissonant or showy in style, size, design, brightness, or color.</p> <p>Do not replace or interfere with the proper wear of any authorized article of the uniform.</p> <p>Are not temporarily or permanently affixed or appended to any authorized article of the uniform.</p>
pre-accession	The period of time before a prospective Service member's participation in a commissioning program, warrant officer program, enlistment (or entry), reenlistment (or reentry), or enrollment in a Military Service Academy or a Senior Reserve Officers' Training Corps program.

TERM	DEFINITION
religious apparel	Articles of clothing, jewelry or other such accoutrements the wearing of which is part of the observance of the religious faith practiced by the Service member.
religious body art	Temporary or permanent tattoos, piercings through the skin or body parts, or other modifications to the body that are a part of a Service member's religious practice.
religious practice	An action, behavior, or course of conduct constituting individual expressions of religious beliefs, whether or not compelled by, or central to, the religion concerned.
substantial burden	<p>A governmental act is a substantial burden to a Service member's exercise of religion if it:</p> <ul style="list-style-type: none">Requires participation in an activity prohibited by a sincerely held religious belief;Prevents participation in conduct motivated by a sincerely held religious belief; orPlaces substantial pressure on a Service member to engage in conduct contrary to a sincerely held religious belief.

REFERENCES

DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008

DoD Instruction 1304.28, “Guidance for the Appointment of Chaplains for the Military Departments,” June 11, 2004, as amended

DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019

Section 533 of Public Law 112-239, the “National Defense Authorization Act for Fiscal Year 2013,” December 18, 2012, as amended

United States Code, Title 10

United States Code, Title 42

United States Constitution



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 1730.8B CH-1
ASN (M&RA)/N097
28 March 2012

SECNAV INSTRUCTION 1730.8B CHANGE TRANSMITTAL 1

From: Secretary of the Navy

Subj: ACCOMMODATION OF RELIGIOUS PRACTICES

Encl: (1) Revised Page 3
(2) Revised Page 4
(3) Revised Page 8

1. Purpose. To transmit new pages 3, 4, and 8 of the basic instruction replacing obsolete language relative to dietary accommodation and clarifying the factors commanders consider when making determination to grant a request for religious accommodation thereby ensuring that commanders do not treat requests for religious accommodation as personal requests for general accommodation but afford such requests the proper consideration due their religious nature.

2. Action. Remove pages 3, 4, and 8 of the basic instruction and replace with enclosures (1), (2), and (3), respectively, of this change transmittal.

(b) (6)

JUAN M. GARCIA III
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Distribution:

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DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 1730.8B
N097
02 October 2008

SECNAVINST 1730.8B

From: Secretary of the Navy

Subj: ACCOMMODATION OF RELIGIOUS PRACTICES

Ref: (a) DoD Directive 1300.17, of 3 Feb 88
(b) U.S. Navy Regulations, 1990
(c) DoD 7000.14-R, Vol. 7A, of Feb 02
(d) DoD Directive 5154.24, of 3 Oct 01
(e) Title 10, United States Code

1. Purpose. To provide policy and guidance for the accommodation of religious practices within the Department of the Navy (DON) under reference (a). The DON recognizes that religion can be as integral to a person's identity as one's race or sex. The DON promotes a culture of diversity, tolerance, and excellence by making every effort to accommodate religious practices absent a compelling operational reason to the contrary. During a service member's career in the DON, he or she will be exposed to a wide variety of religious expressions from both chaplains and other service members. It is DON policy to foster mutual respect for diverse religious expressions, which includes accommodating as many of them as possible at the command level. Chaplains are the Navy's only trained professional religious accommodators. Assisted by religious program specialists, they provide for and facilitate the religious needs of authorized personnel. The Chaplain Corps' capabilities are critical to the commander's ability to successfully meet the requirement for the free exercise of religion set forth in the U.S. Constitution.

2. Cancellation. SECNAVINST 1730.8A.

3. Applicability. The policies and procedures in this instruction apply solely to the accommodation of religious practices within the DON and no other context.

4. Definitions

a. Department of the Navy. The DON, for purposes of this instruction, includes applicants for entry to, and members of, the Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, as

well as midshipmen at the U.S. Naval Academy and in the Reserve Officer Training Corps, and officers and officer candidates in all officer accession programs.

b. Religious Observance. Religious observances include participating in worship services and following other doctrinal requirements on Sabbath and holy days.

c. Religious Dietary Observances. Religious dietary observances include doctrinal or traditional requirements on types of foodstuffs allowed or the means of food preparation.

d. Religious Apparel. Religious apparel is defined as articles of clothing worn as part of the doctrinal or traditional observance of the religious faith practiced by the service member. Hair and grooming practices required or observed by religious groups are not included within the meaning of religious apparel.

e. Religious Medical Practices. Religious medical practices include doctrinal or traditional objections to receiving immunizations and providing Deoxyribonucleic Acid (DNA) specimen samples.

5. Policy. DON policy is to accommodate the doctrinal or traditional observances of the religious faith practiced by individual members when these doctrines or observances will not have an adverse impact on military readiness, individual or unit readiness, unit cohesion, health, safety, discipline, or mission accomplishment.

a. Accommodation of a member's religious practices cannot be guaranteed at all times and is subject to military necessity. Determination of necessity rests entirely with the commanding officer.

b. The guidelines in this instruction shall be used in the exercise of command discretion concerning the accommodation of religious practices. Nothing in these guidelines, except as expressly provided herein, shall be interpreted to require a specific form of accommodation in individual circumstances.

c. All requests for accommodation that can be approved by the commanding officer shall be approved or denied, absent unusual circumstances, within 1 week of the date of request.

Requests that require approval from the headquarters level shall be approved or denied within 30 days of the date of request for cases arising in the United States, and within 60 days for all other cases. Exceptions to these deadlines shall be limited to unusual circumstances.

d. Any request for accommodation that is denied is subject to appeal as follows.

(1) The requesting member shall be informed by the commanding officer of the right to appeal the decision up the chain of command.

(2) Requests denied by the commanding officer shall be appealed to the next higher level of command. Subsequent appeals shall be made at successive levels of command up to and including the Chief of Naval Operations (CNO) or Commandant of the Marine Corps (CMC) as appropriate.

(3) The next level of command will either overturn or uphold the contested decision within 30 days of the date of appeal for cases arising in the United States, and within 60 days for all other cases. Absent unusual circumstances, exceptions to these deadlines shall be limited.

(4) Denied requests regarding the wear of religious apparel shall be appealed directly to the CNO or the CMC per reference (a). The CNO and CMC will provide an information copy of the approval or denial to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN(M&RA)).

(5) The decision of the CNO or CMC shall not be subject to appeal.

6. Religious observances shall be accommodated, except by reason of necessity, as provided in reference (b). In scheduling, commanders should be mindful of major religious observances.

7. Dietary Observance. Commanders afloat and ashore should accommodate religious dietary observances to the fullest possible extent within the limits and guidelines established by this policy. Commanders normally accommodate religious dietary observances through a standard core menu that supports many

religious dietary requirements, and or by issuing Meals Ready to Eat, Religious (MRE-R), or through other appropriate means. To the extent that health, safety, or readiness in the unit is not compromised, commanding officers should authorize individuals to provide their own supplemental food rations at sea or in the field environment to accommodate their religious dietary observances.

8. Immunizations. Immunization requirements may be waived when requested by the member based on religious objection.

a. The religious objection of the service member must be balanced against the medical risk to the member and the military unit, and military requirements such as alert status, deployment potential, and availability of the member for reassignment to units requiring full medical readiness. To provide for consistent application of these guidelines, immunization waivers will be decided by the Surgeon General of the Navy (CNO (N093)) or headquarters level designee. Individual requests shall be submitted to Chief, Bureau of Medicine and Surgery (MEDCOM-24), via the commanding officer and Deputy Chief of Naval Operations, Manpower, Training and Education (CNO (N1)) or CMC Deputy Chief of Staff for Manpower and Reserve Affairs (DCS (M&RA)), as appropriate.

b. Commanding officers may subsequently revoke waivers for service members at imminent risk of disease due to exposure or to conform to international health regulations incident to foreign travel or unit deployment. The guidance in paragraph 11e on irresolvable differences must be considered in such circumstances.

9. Deoxyribonucleic Acid (DNA) Specimen Sampling

a. Requests for waiver of the DNA specimen sample requirement will be decided by CNO (N1) or CMC (DCS (M&RA)). Individual requests shall be submitted to CNO (N1) or CMC (DCS (M&RA)), as appropriate, via the commanding officer.

b. When determining whether to grant a request for waiver based on religious medical practices, the five factors contained in paragraph 11c as supplemented by the following shall be considered:

(1) DNA analysis fulfills the military requirement of quickly and accurately identifying the remains of service members under reference (d). DNA analysis is not conducted on the specimen unless necessary for identification of remains or for other narrowly defined purposes. The specimen sample will be destroyed at the request of the member upon completion of service.

(2) The cumulative impact of repeated accommodations of a similar nature and previous treatment of similar requests may set a precedent that could adversely impact other Department of Defense (DoD) medical policies and programs, including mandatory pre-deployment processing, medical screening activities, Human Immunodeficiency Virus testing and medical surveillance program serum collection.

10. Uniforms

a. When approved by competent military authority, religious apparel not visible or otherwise apparent may be worn with the uniform, provided it does not interfere with the performance of the member's military duties or interfere with the proper wearing of any authorized article of the uniform.

b. When approved by competent military authority, visible items of religious apparel will be authorized for wear with the uniform, except when the item is not neat and conservative, its wearing will interfere with the performance of the member's military duties, or is specifically prohibited in subparagraphs 10d and 10e. In the context of the wearing of a military uniform, "neat and conservative" items of religious apparel are those that:

(1) Are discreet, tidy, and not dissonant or showy in style, size, design, brightness or color.

(2) Do not replace or interfere with the proper wearing of any authorized article of the uniform.

(3) Are not temporarily or permanently affixed or appended to any article of the uniform.

(4) Do not obscure the identity of the wearer or interfere with communication.

c. The standards in subparagraph 10b, and the prohibitions in subparagraphs 10d and 10e, are intended to serve as a basis for determining a service member's authorization to wear religious apparel with the uniform. Unless prohibited by subparagraph 10d or 10e, religious apparel shall be authorized.

d. Whether an item of religious apparel interferes with the performance of the service member's military duties depends on the characteristics of the item, the circumstances of its intended wear, and the particular nature of the member's duties. Factors in determining if an item of religious apparel interferes with the military duties include, but are not limited to, whether the item may:

(1) Impair the safe and effective operation of weapons, military equipment, or machinery.

(2) Pose a health or safety hazard to the wearer or others.

(3) Interfere with the wearing or proper functioning of special or protective clothing or equipment (e.g., helmets, flak jackets, flight suits, camouflage uniforms, gas masks, wet suits, and crash and rescue equipment).

(4) Otherwise impair the accomplishment of the military mission.

e. Visible items of religious apparel shall not be worn while wearing historical or ceremonial uniforms; participating in review formations, parades, honor or color guards and similar ceremonial details or functions.

f. Jewelry bearing religious inscriptions or otherwise indicating affiliation or belief may be worn subject to the same uniform regulations prescribed for jewelry that is not of a religious nature.

g. Chaplains may wear any religious apparel required by their religious organizations with the uniform while conducting public worship services and during the performance of rites and rituals distinct to their faith groups.

h. Service members may wear any required religious apparel distinct to their faith group with the uniform while in attendance at public worship services.

i. Subject to the guidelines in subparagraph 4d, and the limitations in subparagraphs 10b, 10d, and 10e, commanding officers shall approve individual requests for wearing visible religious apparel with the uniform in circumstances other than attendance at public worship services. Visible items of religious apparel may not be worn with the uniform until approved.

j. A member whose request to wear a visible item of religious apparel has been approved by their commanding officer must again request approval when reporting to a new command or when a new commanding officer reports.

11. Responsibilities

a. Members seeking religious accommodation must submit their request in writing through their chain of command to their commanding officer, commander, or as otherwise specified in this instruction.

b. Commanders will respond to requests for accommodation in a just and timely manner, supporting religious freedom and respect for religious diversity within the Sea Services.

c. Commanders and commanding officers shall approve requests for religious accommodation within the guidelines of this instruction. To promote standard procedures for the accommodation of religious practices, commanding officers shall consider the following factors:

(1) The importance of military requirements, including individual readiness, unit readiness, unit cohesion, health, safety, morale, discipline, and mission accomplishment.

(2) The religious importance of the accommodation to the requester.

(3) The cumulative impact of repeated accommodations of a similar nature.

(4) Alternative means available to meet the requested accommodation.

(5) Previous treatment of the same or similar requests, including treatment of similar requests made for other than religious reasons. Religious requests should be considered at least as favorably as non-religious requests. A request for religious accommodation should not be denied simply because a similar non religious request was denied.

d. When requests are precluded by military necessity, commanders should seek reasonable alternatives.

e. When requests for accommodation are not in the best interests of the unit but continued tension between the unit's requirements and the individual's religious beliefs is apparent, administrative action is authorized, including but not limited to: reassignment, reclassification, or separation consistent with Secretary of the Navy (SECNAV) and Service regulations.

f. Commanding officers shall report each decision to approve or deny a request for religious accommodation up the chain of command to CNO (N1) or CMC (DSC (M&RA)) as appropriate.

g. Nothing in this instruction precludes action under the Uniform Code of Military Justice in appropriate circumstances.

h. The Chief of Chaplains will annually report to the SECNAV, the CNO and the CMC on religious demographics and religious diversity in the DON.

i. The Chief of Chaplains will provide procedures for commanders to record and report their decisions regarding requests for accommodation.

12. Information and Education

a. The CNO and CMC shall provide DON policy on accommodation of individual religious practices and military requirements in paragraphs 5 and 5a of this instruction to applicants for commissioning, enlistment and reenlistment, and shall require the member's signature acknowledging the DON policy.

b. The CNO and CMC shall incorporate relevant materials on religious traditions, practices, policies, this instruction, and reference (e), in curriculum for command, judge advocate, chaplain and similar courses of instruction and orientation.

13. Action

a. ASN(M&RA) is responsible for overall policy control and program execution.

b. The CNO and CMC shall implement the policies and procedures in this instruction.

c. The CNO and CMC shall review Service regulations governing uniforms, food service, separate rations, immunizations, and DNA sampling and revise them as necessary in order to conform to this instruction within 90 days from the date of this instruction and provide copies of each such regulation revision to ASN(M&RA).

d. CNO (N1) and CMC (DCS (M&RA)) shall collect, maintain and make available to the Chief of Navy Chaplains (CNO (N097)) the data concerning religious diversity, religious demographics and statistics related to the approval and denial of requests for religious accommodation.

14. Records Management. Records created by this instruction, regardless of media and format, shall be managed in accordance with SECNAV Manual 5210.1.

(b) (6)

Donald C. Winter

Distribution:

Electronic only, via Department of the Navy Issuances Web site
<http://doni.daps.dla.mil/>



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

ACTION MEMO

FOR: ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND RESERVE AFFAIRS)

FROM: VADM S. R. Van Buskirk, Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)

SUBJECT: United States Navy Religious Accommodation Process

- Mr. Secretary, request you grant authority for N1 to approve all religious accommodation requests. TAB B is a similar authorization granted to the Marine Corps on November 1, 2012.
- The Secretary of Defense directed the services to review and ensure sufficient clarity and specificity in religious accommodation processes; consistent with the Chairman of the Joint Chiefs of Staff (CJCS) and Service Chiefs' intent to ensure that appropriate levels exercise regulatory waiver authority, the U.S. Navy developed a process by which requests for religious accommodation (grooming or apparel, only) will be addressed in accordance with pertinent law, rules, regulations and instructions.
- The Navy religious accommodation process has a twofold purpose: first, to maintain the fighting capability of the Navy at the highest level; and second, to accommodate the religious practices of members where and when appropriate.
- Upon receipt of a request, DCNO (N1) will consider the totality of the request as well as precedence, approve or disapprove, in whole or in part, and send the decision, via the chain of command, to the requestor. The denial of a request is subject to review by the Chief of Naval Operations (CNO). The requestor, upon receipt of the DCNO (N1) decision, may appeal that decision to the CNO, whose decision is final.
- The process alters pre-existing practice, but maintains the service-level oversight twice determined necessary by the CJCS and Service Chiefs. This process provides appropriate and consistent accommodation determinations within the requirements of the pertinent instructions, regulations, and law, as recommended by OSD.
- I am working with the Chief of Chaplains and DC (M&RA) on a re-write of SECNAVINST 1730.8C that codifies this change at which time, this action memo is no longer required.

SUBJECT: United States Navy Religious Accommodation Process

RECOMMENDATION: Approve request by initialing below as appropriate:

Approve  Disapprove _____

ATTACHMENTS:

As stated

COORDINATION: TAB C

Prepared By  N131, 



DEPARTMENT OF THE NAVY
CHIEF OF NAVAL PERSONNEL
701 SOUTH COURTHOUSE ROAD
ARLINGTON VA 22204-2472

BUPERSINST 1730.11A CH-1
N13
11 Mar 2022

BUPERS INSTRUCTION 1730.11A CHANGE TRANSMITTAL 1

From: Chief of Naval Personnel

Subj: STANDARDS AND PROCEDURES GOVERNING THE ACCOMMODATION OF
RELIGIOUS PRACTICES

Encl: (1) Revised Page 10

1. Purpose. To transmit new page 10 of the basic instruction adding clarification.
2. Action. Remove page 10 of the basic instruction and replace with enclosure (1) of this change transmittal.

(b) (6)

JOHN B. NOWELL, JR
Deputy Chief of Naval Operations
(Manpower, Personnel, Training,
And Education)

Releasability and distribution:

This instruction is cleared for public release and is available electronically only via BUPERS/NAVPERSCOM Web site, <https://www.mynavyhr.navy.mil/Support-Services/Religious-Accommodations/>



DEPARTMENT OF THE NAVY
CHIEF OF NAVAL PERSONNEL
701 SOUTH COURTHOUSE ROAD
ARLINGTON VA 22204-2472

BUPERSINST 1730.11A
N13
16 Mar 2020

BUPERS INSTRUCTION 1730.11A

From: Chief of Naval Personnel

Subj: STANDARDS AND PROCEDURES GOVERNING THE ACCOMMODATION OF
RELIGIOUS PRACTICES

Ref: (a) DoD Instruction 1300.17 of 10 February 2009
(b) SECNAVINST 1730.8B
(c) NAVPERS 15665I
(d) BUMEDINST 6230.15B

Encl: (1) Sample Request for Waiver of Policy to Accommodate a Religious Practice
(Template)
(2) Chaplain Interview Checklist (Template)
(3) Chaplain Memorandum for the Record (Template)
(4) Religious Accommodation Approval or Endorsement (Template)

1. Purpose. To provide policy, guidance, procedures and responsibilities for the accommodation of practices in support of sincerely held religious beliefs for Sailors and prospective accessions, per references (a) and (b). Reference (c) provides the Navy's manner of wear policy for the most commonly requested waivers of uniform and grooming standards in support of religious practices, as delineated in paragraph 5.

a. This revision updates policy, guidance and procedures for the accommodation of practices in support of sincerely held religious beliefs.

b. This is a complete revision and should be reviewed in its entirety.

2. Cancellation. BUPERSINST 1730.11.

3. Scope and Applicability

a. This instruction applies to all active and reserve members of the Navy, including applicants for entry into the Navy and Navy Reserve, as well as midshipmen at the U.S. Naval Academy (USNA) and in the Naval Reserve Officers Training Corps (NROTC), and officers and officer candidates in Navy officer accession programs. Nothing in this instruction precludes disciplinary or administrative action for conduct that is proscribed by the Uniform Code of Military Justice or supporting policies.

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b. **Conscientious Objectors.** Conscientious objections are not covered under this instruction. See DoD Instruction 1300.06 (Conscientious Objector) of 12 July 2017.

c. **Peyote Use.** Peyote use is not covered under this instruction. See Assistant Secretary of Defense for Force Management Policy Memorandum of 25 April 1997, *Sacramental Use of Peyote by Native American Service Members*.

3. **Background.** This policy complies with references (a) and (b) and supports the Navy's culture of diversity, tolerance and inclusion. In line with section 2000bb-1 of Title 42, United States Code, requests for religious accommodation from a military policy, practice or duty that substantially burdens a Sailor's exercise of religion may be denied only when the military policy, practice or duty furthers a compelling government interest and is the least restrictive means available of furthering that compelling government interest. Religious liberty is more than freedom to worship. It includes the freedom to integrate one's religion into every aspect of one's life. When the policies or procedures of the Navy conflict with a Sailor's religious practices, the Navy works to support the Sailor's religious practices to the broadest extent possible within the bounds of military readiness, unit cohesion, good order, discipline, health and safety. Many religious practices such as (but not limited to) religious observances and dietary practices do not need a request for waiver of policy and can be accommodated at the command level.

4. **Roles and Responsibilities**

a. **Sailors.** Sailors seeking accommodation of a religious practice that requires a waiver of Navy policy ("requestors") must submit a request in writing to their commander, consistent with enclosure (1). Prospective accessions seeking accommodation of a religious practice that requires a waiver of Navy policy ("requestors") should use the accession source chain of command, consistent with subparagraph 5b, enclosure (1) and Table 2.

(1) A requestor must comply with the applicable policy, practice, direction or duty from which he or she is requesting a religious accommodation until the request is adjudicated. Additionally, commanders and commanding officers ("commanders") may temporarily modify or suspend a religious accommodation, consistent with subparagraph 5g.

(2) A requestor with an approved religious accommodation must inform his or her chain of command of the approved accommodation upon checking in to a new command or changing duties. A requestor must retain a copy of the approved accommodation and be able to produce it within five working days.

b. **Chaplains.** Command chaplains are responsible for advising and assisting commands with religious accommodation policy execution. In line with SECNAVINST 1730.7E, chaplains, assisted by Religious Program Specialists, provide for and facilitate religious requirements of Sailors and authorized users and advise commanders on command religious program matters throughout the Department of the Navy (DON).

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(1) A Navy chaplain will conduct an administrative interview for each religious accommodation request that requires a waiver of policy. Local chaplains should be used if available. Chaplains may use any means available to ensure the interview takes place promptly, such as telephone or video conference. The chaplain should use enclosure (2) during the interview and must produce a memorandum for the record consistent with enclosure (3).

(2) The chaplain will inform the Sailor or prospective accession that the interview is for the purpose of preparing a memorandum for the record and advising the command, and that the content of the interview is not privileged or confidential as defined in SECNAVINST 1730.9A and the Manual for Courts-Martial Military Rule of Evidence 503.

c. Commanders and Commanding Officers (CO). Commanders must process requests according to the timelines, routing and criteria set forth in this instruction.

(1) When forwarding a request for adjudication or appeal, commanders will use enclosure (4).

(2) Commanders must obtain the advice of a judge advocate and a chaplain prior to acting on a request that involves a waiver of Navy policy.

(3) Commanders will include a religious needs assessment upon check-in to the command in line with OPNAVINST 1730.1E to include identification of Sailors who may need previously-approved religious accommodation waivers reviewed.

d. Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (CNO N1). CNO N1 is responsible for overseeing this religious accommodation policy and will review and act on religious accommodation requests that require waiver of Department of Navy (DON) policy and are routed to CNO N1 for approval as indicated in Tables 1 and 2.

5. Policy. In accordance with Article 0820 of United States Navy Regulations, 1990, commanders will provide maximum opportunity for the free exercise of religion by members of the naval service.

a. Standards-Based Approach. The Navy has a compelling governmental interest in mission accomplishment at the individual, unit and organizational levels, including such necessary elements of mission accomplishment as military readiness, unit cohesion, good order, discipline, health and safety. The military is a specialized community within the United States, governed by a discipline separate from the rest of society. All Navy personnel must expeditiously review and act on requests for religious accommodations. Many religious practices do not require an exception to Navy policy and can be accommodated at the command level. The term “religious practice” includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

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(1) Each request for religious accommodation must be reviewed on a case-by-case basis, giving consideration to the full range of facts and circumstances relevant to the specific request. Requests to accommodate religious practices should not be approved or denied simply because similar requests were approved or denied. The following factors should be considered:

- (a) applicable operational or regional policies,
- (b) importance of the military policy, practice or duty in terms of mission accomplishment, including military readiness, unit cohesion, good order, discipline, health, or safety,
- (c) importance of the practice to the requestor,
- (d) cumulative impact of repeated accommodations of a similar nature and
- (e) alternate means to fulfill the request.

(2) To comply with the intent of section 2000bb-1 of Title 42, U.S. Code, commanders and their staffs should remain objective in considering requests to accommodate religious practices. Commanders will not deny or recommend denial of a religious accommodation unless the denial or partial denial furthers a compelling governmental interest and is the least restrictive means of furthering that compelling government interest. It is essential that commanders articulate the factual basis underlying any compelling government interest and that they articulate why a recommended denial or partial denial is the least restrictive means available to the commander to protect the compelling government interest over the individual request. Factors to consider include (but are not limited to) whether approving the accommodation would:

- (a) pose a health or safety hazard (such as flammable materials or loose clothing that could become caught in a piece of equipment),
- (b) interfere with the wear or proper function of special or protective clothing or equipment (such as a respirator, protective helmet or communication gear) or
- (c) otherwise impair mission accomplishment, good order, discipline, morale or unit cohesion.

(3) Sometimes it is necessary for commanders to recommend an alternative manner by which the religious requirement may be met. For example, there may be options and resources not known to the member at the time of his or her request that might be known to the commander. Those alternatives should be discussed and offered to the member to determine if they might satisfy some or all of the member's religious requirement. Where appropriate, the chaplain memorandum may discuss alternative means available to address the requested accommodation.

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(4) Religious practices and corresponding approval authorities are listed in Table 1. Many religious practices, such as (but not limited to) religious observances and dietary practices do not need a request for waiver of policy and can be accommodated at the command level. Other religious accommodations may be approved by the first O-6 in the chain of command, whether the requestor's CO or Immediate Superior in Command (ISIC). Per reference (a), exceptions to Table 1 are not permitted without CNO N1 approval.

Type of Religious Practice	Authority
Religious observances per subparagraph 5d(1)	CO
Dietary practices per subparagraph 5d(2)	CO
Neat, conservative head covering in line with subparagraph 5d(4)(a), which requires waiver of uniform regulation provisions in reference (c)	Approvals authorized at O-6 CO/ISIC level. O-6 CO/ISIC send recommendation for disapproval directly to CNO N1
Unshorn hair on men in line with subparagraph 5d(4)(b), which requires waiver of uniform regulation provisions in reference (c)	O6 CO/ISIC send recommendation directly to CNO N1
Beard, which requires waiver of requirement for male Sailors to be clean shaven found in reference (c), in line with subparagraph 5d(4)(c)	O6 CO/ISIC send recommendation directly to CNO N1
Uniform, grooming or religious apparel waivers not authorized at the CO or O-6 CO/ISIC level in line with reference (c)	O-6 CO/ISIC send recommendation directly to CNO N1
Immunizations per subparagraph 5d(3)	O-6 CO/ISIC send recommendation directly to CNO N1
All other types of religious practices that require a waiver of Navy policy to support	O-6 CO/ISIC send recommendation directly to CNO N1

Table 1. Authorities and Religious Practices

Note 1: Pre-accession authority examples are listed below in subparagraph 5b.

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b. Accessions

(1) Navy accession sources, Navy Recruiting Command, Naval Service Training Command, USNA and U.S. Navy Bureau of Medicine and Surgery (BUMED), are the designated chains of command for pre-accession requests in line with Table 2. Accession source headquarters are responsible for ensuring active and reserve enlisted and officer accessions are informed of uniform and grooming standards and policies, as well as procedures for seeking religious accommodations. Accession source headquarters must document this opportunity in writing and ensure all accession requests for religious accommodation are adjudicated prior to entering service. The following language should be used to document the applicant understanding of the Navy's religious accommodation policy:

"I understand that Department of the Navy policy is to accommodate religious practices whenever possible, unless doing so would have an adverse impact on mission accomplishment, including military readiness, unit cohesion, good order, discipline or health and safety.

I understand accommodation of my religious practices cannot be guaranteed at all times. I understand that determination of military necessity rests entirely with my Navy chain of command, and that I will be expected to comply with the Navy's policy, practice or duty from which I am requesting accommodation unless and until approved by the designated authority.

I do NOT desire to request support for specific religious practices at this time

(Applicant Signature)

I DO desire to request support for the following religious practice(s):

(Type of Request)

(Applicant Signature)

Applicants requesting religious accommodation may not enlist or commission until they receive a final response in writing. Accession commands must immediately process the request in line with BUPERSINST 1730.11A (Standards and Procedures Governing the Accommodation of Religious Practices).

(Typed or Printed Name and Signature of Witnessing Recruiting Representative)"

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(2) Additionally, prospective accessions must be given the opportunity to route a religious accommodation request prior to departure for a Military Entrance Processing Station. Many pre-accession religious practices such as (but not limited to) religious observances and dietary practices do not need a request for waiver of policy and can be accommodated at the command level. Certain requests for religious accommodation may be approved by local commanders as listed in Table 2, below. Per reference (a), exceptions to this table are not permitted without CNO N1 approval.

Type of Religious Practice	Process	Notes
Religious observances	Route to RTC/OTCN CO for approval	RTC/OTCN CO send recommendation for disapproval directly to CNO N1
Dietary practices	Route to RTC/OTCN CO for approval	RTC/OTCN CO send recommendation for disapproval directly to CNO N1
Religious head covering during RTC/OTCN	RTC/OTCN CO may approve religious head covering during religious ceremonies/services only	If religious head covering during religious ceremonies/services only is not acceptable by applicant, then send to CNO N1
Unshorn hair on men in line with subparagraph 5d(4)(b), which requires waiver of uniform regulation provisions in reference (c)	RTC/OTCN CO send recommendation directly to CNO N1	
Any request for beards during RTC/OTCN	RTC/OTCN CO send recommendation directly to CNO N1	
Uniform, grooming or religious apparel accommodation that do not require waiver of DON policy	Route to RTC/OTCN CO for approval	Disapproval recommendations must be routed to CNO N1
Immunizations	RTC/OTCN CO may approve use of any available alternative vaccinations	If no alternative vaccines are available, then send recommendation directly to CNO N1
All other requests that require a waiver of Navy policy	Route to CNO N1	

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Table 2. Authorities and Religious Practices for Pre-Accession and Recruit Training

c. Timelines. For waivers of policy requiring adjudication at the commander or O-6 CO/ISIC level, final review and written notification to the requestor will be completed no later than 7 days from the date the requestor submitted the request to his or her immediate commander. Extensions for good cause may be granted by the Director, Military Personnel, Plans and Policy (OPNAV N13). Examples of good cause for an extension include operational necessity or lack of immediate access to a judge advocate or chaplain. All religious accommodation cases forwarded from an O-6 CO/ISIC or RTC/OTCN to CNO N1 for adjudication must be forwarded within 7 days from the date the requestor submitted the request to his/her immediate commander, and will be expeditiously adjudicated in line with references (a) and (b). To ensure timely and consistent adjudication of all requests, active and reserve Sailors will not submit a request for a religious accommodation that would require a waiver of Navy policy if they are expected to execute permanent change of station orders within 90 days. Written notification should be given to the requestor within 5 days upon any decision, modification, suspension or revocation of a waiver of policy.

d. Religious Practice Type

(1) Observances of Worship and Holy Days. Worship practices, holy days and Sabbath or similar religious observance requests will be accommodated except by necessity, consistent with mission accomplishment, U.S. Navy Regulations, and Navy Military Personnel Manual (MILPERSMAN) article 1731-010. These requests do not normally require a waiver of policy.

(2) Dietary Practices. Commanders should support religious dietary observances to the fullest extent possible. Commanders normally support religious dietary observances through a standard core menu that supports many religious dietary requirements or by issuing Meals Ready to Eat, Religious. In certain circumstances, commanders may consider other alternative solutions.

(3) Immunizations. The Navy requires immunizations for all Sailors, based on its compelling interest in mission accomplishment, including military readiness, unit cohesion, good order, discipline, health and safety. Local commanders should make a reasonable effort to acquire alternative vaccinations, when available, that meet both religious needs of Sailors and the Navy's immunization requirements as determined by BUMED. Refer to MILPERSMAN 1730-020 as needed. Medical waivers of immunization requirements not associated with religious belief will continue to be adjudicated by the health care provider as addressed in reference (d).

(4) Uniform and Grooming. Pursuant to subparagraph 5a above, to determine whether a religious accommodation might interfere with the accomplishment of the unit or individual mission(s), a commander should consider such factors as the safe and effective operation of weapons, work center equipment and machinery, as well as wear of protective clothing or equipment. Commanders should also state in the endorsement or approval how the religious accommodation may need to be modified in operational, non-operational or training environments.

16 Mar 2020

(a) Head Coverings. As delineated in Table 1, religious accommodations for Sailors on all duty types to wear neat and conservative religious head coverings such as (but not limited to) a hijab, turban, kufi, kippah or yarmulke may be authorized at the O-6 CO/ISIC level based upon the operational environment and in line with reference (c). Except in the case of safety or protective headgear required by a Sailor's duties, position or assignment, Sailors granted a religious accommodation for head coverings are not required to wear military headgear in addition to their religious head covering if such military headgear would violate their sincerely held religious beliefs.

(b) Unshorn/Long Hair. As delineated in Table 1, waivers of Navy policy for male Sailors on all duty types to wear unshorn/long hair must be sent to CNO N1 for decision.

(c) Beards. As delineated in Table 1, waivers of Navy policy for Sailors on all duty types to wear a beard must be sent to CNO N1 for decision. Approved unshorn beards must be worn in a neat and conservative manner. When a Sailor is authorized to wear a beard of greater than 2 inches in length, the beard must be rolled, tied and/or otherwise groomed to achieve a length not to exceed 2 inches when measured from the bottom of the chin.

(5) Deoxyribonucleic Acid (DNA) Specimen Sampling. Waiver requests from participation in DNA specimen collection should be forwarded to CNO N1 for final adjudication. BUMED will be consulted prior to final adjudication.

(6) Other Religious Accommodation Requests. All other religious accommodation requests requiring a policy waiver not specified under this section will be routed to CNO N1 via OPNAV N13 for adjudication.

e. Routing. For those requests that require a waiver of policy:

(1) A requestor seeking a waiver of Navy policy must submit a request in writing through his or her commander using the template at enclosure (1). The requestor must state the waiver sought and may elaborate on the sincerely-held religious beliefs or circumstances motivating the request.

(2) Every requestor seeking religious accommodation requiring a waiver of Navy policy must interview with a Navy chaplain. The chaplain will assess whether the requestor's religious beliefs appear sincerely-held, and will forward an evaluation to the commander using the templates provided in enclosures (2) and (3).

(3) Commanders will take appropriate action on requests to stay within the timelines in subparagraph 5(c). Requests forwarded by a commander to the O-6 CO/ISIC or to CNO N1 must include enclosures (1) through (4). There are no additional requirements.

(4) A copy of all waivers of uniform or grooming policy authorized at the O-6 CO/ISIC level must be forwarded via e-mail to OPNAV N13 for record keeping purposes at

ALTN_Navy_Religious_Accommodations@navy.mil. Requests forwarded from the O-6 CO/ISIC level to CNO N1 for adjudication must also be sent to that e-mail address. Forwarding waiver requests to OPNAV N13 via mail is highly discouraged and may potentially delay a decision for a Sailor.

(5) For commands that do not have regular Navy/Marine Corps Intranet e-mail accounts (e.g., overseas, sea duty or joint commands), e-mail OPNAV N13 at ALTN_Navy_Religious_Accommodations@navy.mil first before sending attachments.

(6) If the request contains personally identifiable information (PII), the request must be labelled and encrypted appropriately.

(7) A requester who reports directly to another U.S. military service must route religious accommodation requests to the authority specified in the policies of that military service. Sailors assigned to a joint command will route requests to their respective Navy Element Commander for approval or recommendation to CNO N1 as delineated in Table 1. In all circumstances, Sailors will adhere to the provisions set forth in subparagraph 4a.

(8) Questions from commands and requesters concerning religious accommodation requests may be referred to ALTN_Navy_Religious_Accommodations@navy.mil.

f. Appeals

(1) Appeals of command-level adjudication will be forwarded to the commander's O-6 CO/ISIC for adjudication. Appeals of O-6 CO/ISIC level adjudications will be forwarded to CNO N1 for adjudication within 15 days from the date the requester submits the appeal. Appeals of CNO N1 adjudications will be forwarded to the Chief of Naval Operations (CNO) for final adjudication, unless other direction is provided in reference (a) or (b).

(2) In the case of requests for waivers of uniform or grooming standards only, a denied request may be renewed upon a change in physical, operational, or geographical environment, or at any time when there is a change to pertinent policy. CNO N1 will determine whether a change in environment or policy material to the requested accommodation has occurred; this decision may not be appealed.

g. Approval Duration, Withdrawal, and Suspension. Religious accommodations are subject to review, suspension or revocation, in whole or in part, any time there is a change in the circumstances upon which the initial religious accommodation was based (e.g., new duty assignment, temporary duty, or other material change in circumstances). However, an approved religious accommodation remains in effect until the commander or future commander notifies the Sailor or candidate in writing that a compelling Government interest requires suspension or revocation of the accommodation. The written notification must include the nature of the changed circumstances and specify the reason for the revocation and the length of the suspension.

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(1) The authority to temporarily suspend a previously approved religious accommodation resides with the Sailor's CO, while the authority to permanently revoke a previously approved religious accommodation remains with CNO N1. A commander may suspend or initiate revocation of an approved religious accommodation only upon a determination that a compelling government interest requires such suspension or revocation and that no less restrictive means of furthering that compelling government interest are available. The decision to suspend or initiate revocation of an approved religious accommodation must be informed by the factors enumerated in this instruction.

(2) A commander may require immediate compliance with suspension of a religious accommodation only if necessary due to an imminent threat to health or safety. In any case in which there is no imminent threat, the Sailor or candidate must be given five business days to submit an appeal using the process described in subparagraph 5f(1). The religious accommodation will remain in effect until the appeal process is completed. When necessary, a Sailor may be assigned to temporary additional duty orders to protect him or her from circumstances that are incompatible with the religious accommodation while the appeal is being adjudicated.

(3) When there is a change in military duties or requirements, a commander may suspend a previously approved religious accommodation if the suspension furthers a compelling government interest and is the least restrictive means available to further that interest. For example, a Sailor with a grooming waiver authorizing him to wear a beard may be required to shave the beard to deploy to an area in which there is a high risk that the Sailor will have to don a gasmask. When the conditions that required the suspension are no longer present, the Sailor may resume the religious practice per the original waiver. There is no requirement for a Sailor to resubmit a request for a religious accommodation that has been suspended.

6. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned for the standard subject identification codes (SSIC) 1000 through 13000 series per the records disposition schedules located on the Department of the Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at <https://portal.secnave.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx>.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local records manager or the DON/AA DRMD program office.

7. Review and Effective Date. Per OPNAVINST 5215.17A, OPNAV N13 will review this instruction annually on the anniversary of its issuance date to ensure applicability, currency and consistency with Federal, Department of Defense, SECNAV and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 5 years unless revised or cancelled in the interim, and will be reissued by the 5-year anniversary

16 Mar 2020

date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation following the guidance in (b) (6)

(b) (6)

JOHN B. NOWELL, JR.
Deputy Chief of Naval Operations
(Manpower, Personnel, Training,
and Education)

and distribution:

This instruction is cleared for public release and is available electronically only via BUPERS/NAVPERSCOM Web site, <https://www.public.navy.mil/bupers-npc/reference/Pages/default.aspx>

SAMPLE REQUEST FOR WAIVER OF POLICY TO ACCOMMODATE A RELIGIOUS
PRACTICE (TEMPLATE)

(Date)

From: Rate or rank, as applicable, full name, branch and type of service as applicable
To: Appropriate authority per Table 1 or Table 2 (i.e., O-6 CO/ISIC or CNO N1)
Via: Appropriate authority per Table 1 or Table 2 (i.e., CO, O-6 CO/ISIC)

Subj: REQUEST FOR WAIVER OF POLICY IN SUPPORT OF RELIGIOUS PRACTICE

Ref: (a) DoD Instruction 1300.17 of 10 February 2009
(b) SECNAVINST 1730.8
(c) BUPERSINST 1730.11
(d) Other references as needed

Encl: (1) Photograph or graphic (as needed to show the neat and conservative color, manner of wear, etc.)
(2) Optional enclosures (e.g., religious leader endorsement or research in applicable area)

1. Pursuant to references (a) through (c), I hereby request religious accommodation from Navy policy (use reference as needed) to ____ (describe the specific practice(s)) ____ due to my religious belief that ____ (paraphrase religious basis of the request) ____.

2. My request is based on my religious belief that _____ (provide a detailed explanation here as desired) _____ and reference enclosure (1) or (2) as needed/desired.

3. (Required statement) I certify that I understand that any approved or partially approved waiver may not be appropriate for future duty to which I may be assigned, including operational, non-operational or training command(s), and may be suspended or withdrawn in accordance with reference (c).

(Signature)

16 Mar 2020

CHAPLAIN INTERVIEW CHECKLIST TEMPLATE

Requestor:			Interview Date:
Name:			Chaplain Interviewer:
Phone:			Phone:
Email:			E-mail:
Command:			Chaplain's Command:
Interview Preliminaries			
Yes	No	N/A	
			Chaplain reviewed policy and doctrine on religious accommodation and the policy for which the requestor is seeking accommodation.
			Applicant was notified that the interview is not confidential and will be used to advise the command.
			Chaplain explained to the applicant that confidential support can be received from another chaplain.
			Applicant has been granted a waiver for this practice previously.
			Applicant's Page 2 (NAVPERS 1070/602) reflects the belief cited in the application.
Type of Waiver Requested			
Yes	No	N/A	
			Uniform standards
			Grooming standards
			Immunization requirements
			DNA sampling
			Other (Please describe):
Interview			
Yes	No	N/A	
			Requestor's religious beliefs seemed honestly and sincerely held using one or more of the following factors:
			1. Requestor was credible (consistently keeps tenets, practices, etc.).
			2. Requestor's demeanor and pattern of conduct are consistent with the request.
			3. Requestor participates in activities associated with the belief(s).
			4. Other persons supporting the claim are credible.
			5. Request is supported by letter(s) of verification or endorsement from an organization espousing the beliefs which are the basis for the claim.
			Alternate means of accommodating the practice were explored in the interview.
Process Checklist			
Yes	No	N/A	
			Chaplain has prepared a memorandum documenting the interview.
			Chaplain reviewed memorandum with applicant and provided a copy.
			Chaplain submitted the memorandum and this document to the commanding officer via chain of command.
			Chaplain referred applicant to command to process request.

CHAPLAIN MEMORANDUM FOR THE RECORD (TEMPLATE)

From: [Chaplain's rank and name], CHC, USN
To: [Commanding Officer of requestor]

Subj: REQUEST FOR A WAIVER OF POLICY TO ACCOMMODATE PRACTICE
BASED ON RELIGIOUS BELIEF ICO [REQUESTOR'S RANK, NAME]

Ref: (a) SECNAVINST 1730.8
(b) SECNAVINST 1730.9

1. (Requestor's rank and name) has submitted a request for accommodation of a religious practice per reference (a). Per BUPERSINST 1730.11A, I interviewed the requestor on (date). I explained that this interview would not be a confidential communication as defined by reference (b) and informed the requestor that referral for confidential chaplain support was available.
2. Nature of the request. (Provide a narrative summary of the request for religious accommodation and whether or not the requestor has previously had this or any other related request approved or denied)
3. Basis. (Identify the religious beliefs on which the accommodation request is based and provide a professional and objective opinion regarding the religious importance of the request to the member. Include the requestor's religion as listed on NAVPERS 1070/602 (Page 2).
4. Alternate Means. (Indicate alternate means of meeting the request)
5. Sincerity. (Assess the sincerity of the requestor. The memorandum should focus on the sincerity of the member's personal religious beliefs, including the information provided during the interview.)
6. My contact information is (telephone number and e-mail address).

[Signature]

Copy to:
(Rank and name of requestor)

RELIGIOUS ACCOMMODATION APPROVAL OR ENDORSEMENT (TEMPLATE)

(Date)

From: Appropriate authority per Table 1 or Table 2
To: Appropriate authority per Table 1 or Table 2
Via: As applicable with appropriate authority per Table 1 or Table 2

Subj: APPROVAL (or) APPROVAL/DISAPPROVAL RECOMMENDATION ICO (INSERT
NAME HERE) RELIGIOUS ACCOMMODATION

Ref: (a) DoD Instruction 1300.17
(b) SECNAVINST 1730.8
(c) BUPERSINST 1730.11A
(d) Other references as needed including regional or operational policy

Encl: (1) Sailor/accession request of DD MMM YY
(2) Chaplain Memorandum and Interview Checklist
(3) Other enclosures as needed (e.g., operational or regional policy)

1. Per references (a) through (c)/(d), I am approving this request or I am forwarding this request recommending approval/disapproval in full or in part during the following environments (as applicable to the command):

- a. Operational recommendation:
- b. Non-operational recommendation:
- c. Training environment recommendation:

2. The following information was considered or is provided for consideration as applicable (articulate the factual basis underlying any compelling government interest and why the denial or partial denial is the least restrictive means available to protect the compelling government interest over the individual request):

a. The importance of the military policy, practice or duty from which religious accommodation is sought in terms of mission accomplishment, including:

- (1) Military readiness:
- (2) Unit cohesion:
- (3) Good order and discipline:
- (4) Health and safety:

Enclosure (4)

- b. The religious importance of the practice to the requestor.
 - c. The cumulative impact of repeated accommodations of religious practices of a similar nature.
 - d. Alternate means available to accommodate the practice in whole or in part.
3. Other pertinent issues or information associated with this request.
4. My point of contact (POC) for this matter is _____ (insert POC here) who can be reached at _____ (insert e-mail and telephone number here).
5. This approval/recommendation will be emailed to OPNAV N131 for review/decision within the timelines in reference (c). Otherwise, Commander should provide the timeline/waiver of timeline here as applicable.

(Signature)

Copy to:
OPNAV N131
Operational Commander(s),
Requestor, etc.



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
7700 ARLINGTON BOULEVARD
FALLS CHURCH VA 22042

IN REPLY REFER TO

6320

Ser M44/21UM42751

22 Nov 21

From: Chief, Bureau of Medicine and Surgery
To: Deputy Chief of Naval Operations (Manpower, Personnel, Training, and Education) (N1)

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS ICO AWS1 AARON W. CRABB, USN

Ref: (a) AWS1 Crabb's Waiver Request of 7 Sep 21
(b) BUMED Memo, Diseases Targeted with Mandatory Vaccinations for U.S.
Navy Active Duty and Reserve Personnel of 22 Sep 21
(c) BUMED INST 6230.15B, Immunizations and Chemoprophylaxis for the Prevention
of Infectious Diseases, 7 Oct 13
(d) SECNAVINST 1730.8B CH-1

1. Subject matter experts at the Bureau of Medicine and Surgery have reviewed reference (a). Per reference (a), AWS1 Crabb objects to receiving immunizations developed or tested using fetal cells based on his religious beliefs.
2. Fetal embryo fibroblast cells are used to grow viruses for multiple vaccines, including adenovirus, varicella (chickenpox), rubella (the "R" in the MMR vaccine), hepatitis A, one preparation of rabies vaccine, two combination vaccines containing the polio vaccine virus, and two formulations of zoster (shingles) vaccine. The FDA-approved Coronavirus Disease 2019 (COVID-19) vaccine did not require the use of any fetal cell cultures in order to manufacture the vaccine, however, early in the development of mRNA vaccine technology, fetal cells were used for "proof of concept" or to characterize the SARS-CoV-2 spike protein. All other vaccines, including tetanus, diphtheria, pertussis, influenza, etc., are not derived from fetal cells. No alternative formulations grown without fetal cells are currently available for COVID-19, adenovirus, varicella, rubella, and hepatitis A vaccines.
3. All vaccines required for maintenance of individual medical readiness and vaccines required for specific overseas deployments meet the safety requirements of the U.S. Food and Drug Administration (FDA), and have demonstrated effectiveness in disease prevention.
4. Per reference (c), Active Duty and Reserve Component personnel will receive or be up-to-date on adult routine vaccinations. Details of required vaccinations are outlined in this instruction and are available at www.health.mil/vaccines.
5. A waiver of immunization requirements would have detrimental effects on the readiness of both AWS1 Crabb and Service members who serve alongside AWS1 Crabb. Primary prevention of disease through immunizations is a key enabler for maintaining force health protection and avoiding disease-related non-battle injury, and has been the cornerstone of these efforts for decades. Recent outbreaks of contagious viral diseases aboard Navy ships highlight the

Subj: RELIGIOUS ACCOMMODATION REQUEST THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS ICO AWS1 AARON W. CRABB, USN

operational impact of low levels of immunity. Diseases such as COVID-19 are highly contagious and can rapidly degrade individual and unit readiness. In the current COVID-19 pandemic, the outbreak aboard the *USS THEODORE ROOSEVELT* in March 2020, resulted in 71 days of unavailability for a forward deployed aircraft carrier. There was an infection rate of more than 26% of the crew as confirmed by laboratory testing within 5 weeks of the initial positive case (including four hospitalizations and one death, according to data published in Journal of The American Medical Association 11 November 2020). This outbreak resulted in crew-wide quarantine, isolation, and repeated testing, and highlights the importance of vaccination to both individual and unit force health protection. Additional information on the potential impacts of vaccine-preventable diseases is provided in reference (b).

6. The scientific and medical communities believe that SARS-CoV-2 will likely remain in global circulation as an endemic virus and a threat to the Force. The emergence of the SARS-CoV-2 Delta variant shows that while some vaccinated personnel may transmit the virus, they are largely protected against severe illness and death. Unvaccinated individuals remain at risk for developing COVID-19 and propagating new variants that may adversely impact the readiness of the Force.

7. Vaccination remains the most effective means to prevent COVID-19 (as well as influenza, pertussis, diphtheria, tetanus, and other diseases). Optimally, vaccination should be coupled with other countermeasures to minimize risk of infections to the Sailor's health, co-workers' health, and to Navy's mission. In large phase III trials, the FDA-approved COVID-19 vaccine demonstrated over 94% efficacy in preventing symptomatic COVID-19. For the same vaccine, against the Delta variant in a real world setting, studies show 88% effectiveness against symptomatic disease, to include hospitalization and death. Additional information on the efficacy of other vaccines is provided in reference (b).

8. Per reference (d), the religious objection of the Service member must be balanced against the medical risk to the Service member and their military unit. The Department of Defense has a compelling interest in mission accomplishment and safeguarding the health of military Service members. In this case, the medical risks of not receiving required vaccines outweigh the religious objection that AWS1 Crabb has stated in reference (a).

9. A waiver of required immunizations is not recommended due to the aforementioned reasons.

10. My point of contact is CDR (b) (6) MC, USN, Preventive Medicine (b) (6)
(b) (6) @mail.mil.

(b) (6)

Business Operations



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
7700 ARLINGTON BOULEVARD
FALLS CHURCH VA 22042

IN REPLY REFER TO
6320
Ser M44/22UM401

15 Jun 22

From: Chief, Bureau of Medicine and Surgery
To: Chief of Naval Operations

Subj: POST-INFECTION (NATURAL) IMMUNE RESPONSE COMPARED TO
IMMUNIZATION-DERIVED IMMUNE RESPONSE TO CORONAVIRUS DISEASE
2019

Encl: (1) References

1. The Navy has a compelling interest in protecting every Service member—especially those serving at sea or deployed—from severe illness, hospitalization, and death from Coronavirus Disease 2019 (COVID-19). No U.S. Food and Drug Administration (FDA)-authorized or approved test exists to measure an individual's immunity against the SARS-CoV-2 virus or future vulnerability to COVID-19. Vaccination is the only safe, controlled, and reliable method of preventing hospitalization and death from COVID-19. Vaccination has been studied using randomized controlled clinical trials, which are the highest level of scientific evidence, and are designed to be unbiased and less susceptible to systematic error.

2. Human immunity is defined as protection from infection, re-infection, and severe disease leading to hospitalization or death. Immunity is complex and incompletely understood. Immunity can be achieved through passive immunity, including maternal transfer of antibodies to a fetus or infusion of protective antibodies. Immunity can also be achieved through active mechanisms, to include natural immunity acquired from exposure to the disease and vaccination. Immunity can vary by person and by disease.

3. There is neither an FDA-authorized nor FDA-approved clinical test, such as an antibody-based test, to determine the extent of individual immunity against SARS-CoV-2 infection.

a. When there is sufficient data to define numerical thresholds of antibody levels or other measures that correlate to an individual's immunity to a disease, it may be possible to develop a test for individual immunity. Varicella and hepatitis B are examples of diseases for which there are FDA-authorized antibody-based tests for immunity. Influenza and COVID-19 are examples of diseases for which no FDA-authorized or FDA-approved test of immunity is available.

b. Antibody tests offer an incomplete assessment of an individual's immunity to SARS-CoV-2 infection and COVID-19 illness. Laboratory tests can identify the presence of antibodies to SARS-CoV-2, but there is currently no known threshold of antibody levels, or any other measure, that correlates to an individual's immunity to SARS-CoV-2 infection or COVID-19 illness, (reference (a)). Furthermore, due to the complexity and redundancy of the various components of the immune system, the presence or absence of antibodies is not the sole measure of the body's susceptibility to SARS-CoV-2 infection.

Subj: POST-INFECTION (NATURAL) IMMUNE RESPONSE COMPARED TO
IMMUNIZATION-DERIVED IMMUNE RESPONSE TO CORONAVIRUS DISEASE
2019

c. In the research setting, neutralizing antibody tests have been studied to determine whether antibodies are able to inactivate live SARS-CoV-2 virus, and may better assess immunity. But, again, it remains unknown what level of antibodies, if any, correlates to an individual's immunity to SARS-CoV-2 infection or COVID-19 illness, (reference (m)).

d. The FDA advises against relying on antibody tests as an indication of immunity. Currently, authorized SARS-CoV-2 antibody tests are not validated to evaluate specific immunity or protection from SARS-CoV-2 infection. While a positive antibody test can indicate an immune response has occurred (seroconversion), and failure to detect such a response may suggest a lack of immune response, more research is needed. Nor is an antibody test validated to assess the level of protection provided by an immune response to COVID-19 vaccination. Thus, comparing results of antibody tests is not a valid method of comparing the level of immunity in those who have been infected with SARS-CoV-2, to those who have received a COVID-19 vaccine, (reference (n)).

4. Prior infection is not a reliable source of immunity at the individual level for multiple reasons.

a. Multiple studies have reported substantial heterogeneity in the immune response among individuals with COVID-19, (references (b) through (e)).

b. Previous studies noted antibody response following natural infection offered less cross-protection against new variants compared to vaccination, (references (b), (h) through (k)).

c. Furthermore, the duration of immunity appeared to be shorter following natural infection compared to vaccination.

d. A post-Delta and pre-Omicron CDC report found that infection-derived protection prevented more reinfection and hospitalizations than vaccination without prior SARS-CoV-2 infection, (reference (l)). However, this report contained several limitations, which make it an unreliable basis for public health policy:

(1) This population level study cannot extrapolate immunity in a population to immunity in an individual.

(2) The authors state the analyses were not stratified by time, and as a result they did not consider the effect of waning immunity. This limits the conclusions, which may be derived from the data.

(3) The study design allowed for misclassification bias (systematic error), since persons classified as having no previous COVID-19 diagnosis may have had undiagnosed infection.

(4) There was also the potential for bias due to unmeasured confounding variables with respect to individual behavior, where study groups may differ in their SARS-CoV-2 exposure risk depending on whether they had been vaccinated.

Subj: POST-INFECTION (NATURAL) IMMUNE RESPONSE COMPARED TO
IMMUNIZATION-DERIVED IMMUNE RESPONSE TO CORONAVIRUS DISEASE
2019

(5) This bias may also have occurred with respect to study subjects seeking testing for COVID-19.

(6) The report did not account for the spectrum of COVID-19 disease severity in the groups with previous infections, which can affect the degree of natural immunity that is derived from prior infection.

(7) This study was carried out prior to the emergence of the Omicron variant for which vaccine or infection-derived immunity might be decreased.

e. There have not been any peer review studies comparing natural immunity and vaccination during the Omicron variant surge.

5. In contrast to natural immunity, vaccination has undergone strictly controlled clinical trials and outside review by the FDA using the highest level of scientific evidence to confirm vaccination provides protection against COVID-19 hospitalization and death.


6. Vaccination is the single greatest intervention we can utilize to safely and predictably protect our Naval forces against infectious disease. Reliance on natural immunity, the effectiveness of which is variable and unmeasurable, places the readiness of the force and our critical missions at preventable risk.

7. My point of contact is (b) (6) who can be
(b) (6) @mail.mil.

(b) (6)
B. L. GILLINGHAM

Copy to:
DCNO (NI)

REFERENCES

- (a) Antibody (Serology) Testing for COVID-19: Information for Patients and Consumers FDA; <https://www.fda.gov/medical-devices/coronavirus-covid-19-and-medical-devices/antibody-serology-testing-covid-19-information-patients-and-consumers#notforuse>
- (b) Cavanaugh AM, Spicer KB, Thoroughman D, Glick C, Winter K. Reduced Risk of Reinfection with SARS-CoV-2 After COVID-19 Vaccination — Kentucky, May–June 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:1081-1083. DOI: <http://dx.doi.org/10.15585/mmwr.mm7032e1> 
- (c) Jaafar, Rita, et al. “High individual heterogeneity of neutralizing activities against the original strain and nine different variants of SARS-CoV-2.” *Viruses* 13.11 (2021): 2177.
- (d) Le Bert, Nina, et al. “Widely heterogeneous humoral and cellular immunity after mild SARS-CoV-2 infection in a homogeneous population of healthy young men: Heterogenous immunity to SARS-CoV-2.” *Emerging microbes & infections* 10.1 (2021): 2141-2150.
- (e) Wan Ni Chia, et. al. “Dynamics of SARS-CoV-2 neutralising antibody responses and duration of immunity: a longitudinal study” *The Lancet Microbe*, Volume 2, Issue 6, 2021, Pages e240-e249
- (f) Liu, et al., *Emerging Infectious Diseases*, Vol 27, No. 9, Sep 2021, https://wwwnc.cdc.gov/eid/article/27/9/21-1042_article
- (g) Long, et al., “Clinical and immunological assessment of asymptomatic SARS-CoV-2 infections,” *Nat. Med.* 26, 1200-1204
- (h) Bozio CH, et. al., “Laboratory-confirmed COVID-19 among adults hospitalized with COVID-19–like illness with infection-induced or mRNA vaccine-induced SARS-CoV-2 immunity—nine states, January–September 2021”. *MMWR – Morbidity & Mortality Weekly Report*, 2021. 70.
- (i) World Health Organization (WHO) Institutional Repository for Information Sharing, <https://apps.who.int/iris/handle/10665/341241>
- (j) Stamatatos, et al., “mRNA vaccination boosts cross-variant neutralizing antibodies elicited by SARS-CoV-2 infection,” *Science*, 2021, <https://doi.org/10.1126/science.abg9175>
- (k) Deng, et al., “Transmission, infectivity, and neutralization of a spike L452R SARS- CoV-2 variant,” *Cell*, 2021, <https://doi.org/10.1016/j.cell.2021.04.025>
- (l) Leon TM, Dorabawila V, Nelson L, et al. “COVID-19 Cases and hospitalizations by COVID-19 vaccination status and previous COVID-19 diagnosis – California and New York, May–November 2021.” *MMWR Morb Mortal Wkly rep* 2022; 71:125-131. DOI: <https://dx.doi.org/10.15585/mmwr.mm7104e1>
- (m) Post N, Eddy D, Huntley C, van Schalkwyk MCI, Shrotri M, Leeman D, Rigby S, Williams SV, Bermingham WH, Kellam P, Maher J, Shields AM, Amirthalingam G, Peacock SJ, Ismail SA. Antibody response to SARS-CoV-2 infection in humans: A systematic review. *PLoS One*. 2020 Dec 31;15(12):e0244126. doi: 10.1371/journal.pone.0244126.
- (n) <https://www.fda.gov/medical-devices/safety-communications/antibody-testing-not-currently-recommended-assess-immunity-after-covid-19-vaccination-fda-safety>

UNCLASSIFIED//
ROUTINE
R 311913Z AUG 21 MID200001090997U
FM CNO WASHINGTON DC
TO NAVADMIN
INFO SECNAV WASHINGTON DC
BT
UNCLAS

NAVADMIN 190/21

MSGID/NAVADMIN/CNO WASHINGTON DC/CNO/AUG//

SUBJ/2021-2022 NAVY MANDATORY COVID-19 VACCINATION AND REPORTING POLICY//

REF/A/DOC/SECDEF/24AUG21//
REF/B/ALNAV/SECNAV/302126AUG21//
REF/C/DOC/BUMEDINST 6230.15B/7OCT13//
REF/D/DOC/BUPERSINST 1730.11A/16MAR20//
REF/E/DOC/MILPERSMAN 1730-020//
REF/F/NAVADMIN/OPNAV/042044ZMAY21//
REF/G/DOC/DHA/DHA-IPM/6MAY21//
REF/H/DOC/ASD/3JUN2021//

NARR/REF A IS THE SECRETARY OF DEFENSE MEMO MANDATING CORONAVIRUS DISEASE 2019 VACCINATION FOR DEPARTMENT OF DEFENSE SERVICE MEMBERS.
REF B IS ALNAV 062/21, 2021-2022 DEPARTMENT OF NAVY MANDATORY COVID-19 VACCINATION POLICY.
REF C IS BUMEDINST 6230.15B, IMMUNIZATIONS AND CHEMOPROPHYLAXIS FOR THE PREVENTION OF INFECTIOUS DISEASE.
REF D IS BUPERSINST 1730.11A, STANDARDS AND PROCEDURES GOVERNING THE ACCOMMODATION OF RELIGIOUS PRACTICES.
REF E IS MILPERSMAN 1730-020, IMMUNIZATION EXEMPTIONS FOR RELIGIOUS BELIEFS.
REF F IS NAVADMIN 088/21, SARS-COV-2 VACCINATION AND REPORTING POLICY UPDATE.
REF G IS DEFENSE HEALTH AGENCY INTERIM PROCEDURES MEMORANDUM 20-004, DEPARTMENT OF DEFENSE (DOD) CORONAVIRUS DISEASE 2019 (COVID-19) VACCINATION PROGRAM IMPLEMENTATION PROGRAM.
REF H IS ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS MEMO, CO-ADMINISTRATION OF CORONAVIRUS DISEASE 2019 VACCINES WITH OTHER VACCINES.

POC/BUMED COVID-19 CRISIS ACTION TEAM / (703) 681-1125/EMAIL:
USN.NCR.BUMEDFCHVA.MBX.BUMED---2019-NCOV-RESPONSE-CELL(AT)MAIL.MIL /
OPNAV COVID-19 CRISIS ACTION TEAM / (703) 571-2822 /
EMAIL: OPNAV_COVID_CRISIS_RESPONSE_CELL(AT)NAVY.MIL.

RMKS/1. Background. Disease modeling forecasts that severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), the virus that causes COVID-19, will continue to spread throughout the remainder of 2021. Data and

modeling also indicate that the available vaccines will continue to be effective against severe illness and mortality caused by COVID 19. Of note, all Navy COVID deaths have been individuals not immunized (one individual was partially vaccinated). In consideration of this persistent health and readiness threat to Navy service members, vaccination against COVID-19 is now mandatory per references (a) and (b). This NAVADMIN provides guidance regarding implementation within the Navy.

2. Policy. In accordance with references (a), (b), and this NAVADMIN, Navy service members will be fully vaccinated against COVID-19 through administration of vaccines that have received Food and Drug Administration (FDA) licensure or through the voluntary administration of vaccines under FDA Emergency Use Authorization (EUA) or World Health Organization (WHO) Emergency Use Listing.

2.a. Navy Service Members. Active duty service members, service members in the selected reserve, and service members in the Individual Ready Reserve are considered Navy service members for the purposes of this NAVADMIN.

2.b. Fully Vaccinated. Navy service members vaccinated per paragraph 2 or voluntarily immunized with a COVID-19 vaccine under FDA EUA or WHO Emergency Use Listing in accordance with applicable dose requirements prior to, or after, the establishment of this policy are considered fully vaccinated. Navy service members are considered fully vaccinated two weeks after completing the second dose of a two-dose COVID-19 vaccine or two weeks after receiving a single dose of a one-dose COVID-19 vaccine. Booster shots are still under evaluation and will be addressed via separate message.

2.c. Coordination. Military Treatment Facilities (MTFs) will coordinate ordering, distributing, and administering vaccines, along with their supported activities, units, and other eligible populations.

2.d. COVID-19 Disease Prevention. Vaccination has proven to be the most effective defense against serious illness caused by COVID-19. Maintaining a clean work environment, good hygiene practices including cough/sneeze etiquette, and managing workforce exposure (e.g., social distancing, teleworking, and sick leave) also continue to be effective tools in reducing the spread of COVID-19.

3. COVID-19 Vaccination Administering Requirements and Reporting

3.a. COVID-19 vaccination is mandatory for all DoD service members who are not medically or administratively exempt per references (c), (d), and (e). Navy service members who are not medically or administratively exempt shall be fully vaccinated against COVID-19 as defined in paragraph 2.b above.

3.b. Active duty Navy service members will be fully vaccinated within 90 days from the date of reference (b). Ready Reserve Navy service members will

be fully vaccinated within 120 days from the date of reference (b). New accessions will be fully vaccinated as soon as practicable following service entry.

3.c. This NAVADMIN constitutes a lawful order. Refusal to be fully vaccinated against COVID-19, absent an approved exemption, will constitute a failure to obey a lawful order and is punishable under the Uniform Code of Military Justice and/or may result in administrative action. Adjudication will be in accordance with paragraph 3.e.(5) below. Prior to receiving the COVID-19 vaccine, Navy service members will have access to healthcare providers to address questions regarding the risks of COVID-19 and the benefits of COVID-19 vaccination.

3.d. Exemptions. The two types of exemptions from immunization are medical and administrative. Administrative exemptions include religious accommodations, per references (d) and (e), as well as others per reference (c). The process for obtaining exemptions for mandatory vaccinations is provided in reference

(c) for medical and administrative exemptions and references (d) and (e) for religious accommodations. Specifically for the COVID-19 vaccination, in addition to the processes in reference (c), the authority to grant approval of a permanent medical exemption is the first Navy Medical Department Flag Officer in the medical providers chain of command. Medical Departments may send questions regarding the permanent medical exemption process to usn.ncr.bumedfchva.mbx.bumed--- 2019-ncov-response-cell(AT)mail.mil.

3.d.(1). A history of COVID-19 disease and/or positive serology does not exempt a Navy service member from receiving a COVID-19 vaccine. Those Navy service members who previously received a medical exemption from COVID-19 vaccine while the vaccines were authorized under an EUA will be reevaluated per paragraph 3.d above.

3.d.(2). Navy service members who are actively participating in COVID-19 clinical trials are exempt from mandatory vaccination against COVID-19 until the trial is complete.

3.e. Commanders, Commanding Officers, and Officers in Charge will:

3.e.(1). Identify Navy service members who are not vaccinated against COVID-19 using Medical Readiness Reporting System (MRRS) detailed in paragraph 3.f below.

3.e.(2). Provide sufficient resources to local MTFs or vaccination locations to execute local vaccination plans. In coordination with local commanders, MTFs will develop plans to administer vaccinations.

3.e.(3). In coordination with supporting cognizant medical authority, direct

that unvaccinated Navy service members will initiate vaccination with an FDA-licensed vaccine or, optionally and alternatively, with a vaccine approved for emergency use, on a timeline that achieves full vaccination per paragraph

3.b above. This direction will include information and guidance regarding vaccine availability and administering locations.

3.e.(4). For Navy service members without a pending exemption request or whose exemption request was denied, provide counseling regarding refusal to take the COVID-19 vaccine. This counseling will include access to a healthcare professional to answer questions regarding the risks of COVID-19 and the benefits of COVID-19 vaccinations. Commands will then issue a uniform NAVPERS 1070/613 (Page 13) ordering initiation of the COVID-19 vaccine series, to be completed within the time requirements of paragraph 3.b above. An example NAVPERS 1070/613 can be found at:
<https://portal.secnav.navy.mil/cop/crc/COVID/DocumentationandPDFTraining/Forms/Allitems.aspx>.

3.e.(5). For Navy service members who remain unvaccinated, and who have or are expected to exceed the time requirements of paragraph 3.b, their ultimate disposition will be determined by the designated COVID Consolidated Disposition Authority (CCDA). The CCDA will serve as the central authority for adjudication and will have at his or her disposal the full range of administrative and disciplinary actions. Until further notice, authority is withheld for initiating non-judicial punishment, courts-martial, or administrative separation in cases of Navy Service Members refusing the vaccine. The assigned CCDA and specific required reporting procedures and information will be promulgated via separate message.

3.f. COVID-19 Vaccination Reporting

3.f.(1). Navy service member vaccination administration compliance will be monitored via MRRS. Designated command personnel will access MRRS to track personnel to ensure compliance.

3.f.(2). Vaccine administrators must report vaccine administration errors, serious adverse vaccine reactions or clinically significant adverse events in the Vaccine Adverse Event Reporting System:
<https://vaers.hhs.gov/resources/infoproviders.html>.

3.f.(3). Vaccine administrators must ensure that documentation of COVID-19 vaccine administration is coded to accurately reflect the type of vaccine provided.

3.f.(4). COVID-19 immunization documentation will be completed within an approved electronic health record (EHR). Afloat units will enter COVID-19 immunizations into the Shipboard Automated Medical System/Theater Medical Information Program for subsequent transfer to MRRS. Garrison units will

enter COVID-19 immunizations into AHLTA/MHS GENESIS for subsequent transfer to MRRS.

When an approved EHR is not available, readiness documentation may be entered directly in MRRS, but must also be entered into EHR once available.

3.f.(5). Navy service members who receive the vaccine from a retail network pharmacy or other non-DoD vaccine administrator must provide documentation of COVID-19 vaccination to their respective command no later than the next duty day for Active Component or within 7 days for Reserve Component for entry into EHR and/or MRRS.

3.f.(6). Shore-based commands will request access to MRRS based on unit identification code by submitting a system access authorization request available at: [//mrrs.dc3n.](https://mrrs.dc3n.navy.mil/mrrs)

[navy.mil/mrrs](https://mrrs.dc3n.navy.mil/mrrs) (note: MRRS Web address is case sensitive).

Point of contact: MRRS program office, [mrrspo\(AT\)navy.mil](mailto:mrrspo(AT)navy.mil) / (800) 537-4617 / (504) 697-7070 / DSN: 647-7070. Ship-based commands may utilize Navy Medicine Online or Shipboard Non-Tactical Automated Data Processing Automated Medical System to populate MRRS.

4. COVID-19 Vaccination Administration

4.a. Vaccine administrators should follow the guidance provided in references (f) and (g).

4.b. Per reference (h), there is no harm (contraindication) for co-administration of the COVID-19 vaccination with other vaccines.

4.c. COVID-19 Vaccine Ordering. Naval Medical Logistics Command is responsible for coordinating distribution of COVID-19 vaccine for all Navy and Marine Corps activities: [usn.detrick.navmedlogcomftdmd.list.vialhelp\(AT\)mail.mil](mailto:usn.detrick.navmedlogcomftdmd.list.vialhelp(AT)mail.mil). Navy COVID-19 vaccine is centrally funded. Navy activities will place their order for COVID-19 vaccine via USAMMA-DOC's secure web site: <https://a01.usamma.amedd.army.mil/docvac/Account/Login>.

4.d. COVID-19 Vaccine Integrity. If temperature limits are exceeded during shipment, upon receipt immunization sites must call DLA or USAMMA-DOC at 301-619-4318/8002 or DSN: 343-4318/8002 and [DLA DSCPColdchain\(AT\)dla.mil](mailto:DLA DSCPColdchain(AT)dla.mil) or [paacoldchainteam\(AT\)dla.mil](mailto:paacoldchainteam(AT)dla.mil). For temperature limits exceeded in storage please refer to the following website: <https://www.health.mil/Military-Health-Topics/Health-Readiness/Immunization-Healthcare/Vaccine-Storage-and-Handling/Potential-Vaccine-Compromise-Reporting>.

4.e. Vaccination and Reporting Timeline

4.e.(1). Due to the risk of rapid infection transmission within units and

potential impact on operations, vaccines should be given as quickly as possible. MTFs should be prepared to begin administration of vaccine within 24 hours of receipt. If directly receiving the vaccine, active duty operational units have 72 hours (three working days) following receipt of the vaccine to begin documentation, administration, and vaccination reporting.

4.e.(2). As schedules vary for Navy service members in the Selected Reserve or Individual Ready Reserve, NMLC will coordinate with DLA and the ordering Reserve Command for the vaccine to arrive the week of a drill weekend. Units have 30 days following receipt of the vaccine to document, administer, and report vaccination.

4.e.(3). Installations and MTFs may use the Navy Family Accountability and Assessment System, similar to seasonal influenza efforts, conduct a Pandemic COVID-19 response exercises in conjunction with the COVID-19 vaccine program.

5. Points of contact:

5.a. OPNAV: CAPT Steven Tarr III, (703) 614-9250 /
Email: steven.tarr3(AT)navy.mil.

5.b. BUMED: BUMED COVID-19 CRISIS ACTION TEAM /
(703) 681-1125 / Email: USN.NCR.BUMEDFCHVA.MBX.BUMED--- 2019-NCOV-RESPONSE-
CELL(AT)MAIL.MIL.

6. Released by VADM W. R. Merz, Deputy Chief of Naval Operations for Operations, Plans and Strategy, OPNAV N3/N5.//

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NAVADMIN 102/22

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SUBJ/CCDA ADDITIONAL GUIDANCE REGARDING MEMBERS REQUESTING RELIGIOUS
ACCOMMODATION FROM COVID-19 VACCINATION REQUIREMENTS//

REF/A/MSG/CNO/311913ZAUG21//
REF/B/MSG/CNO/132050ZOCT21//
REF/C/MSG/CNO/152239ZNOV21//
REF/D/MSG/CNO/151203ZDEC21//
REF/E/DOC/SECDEF/24AUG21//
REF/F/MSG/SECNAV/302126ZAUG21//
REF/G/DOC/BUMED/20OCT20//
REF/H/MSG/COMNAVSPECWARCOM/241857ZSEP21//
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REF/P/DOC/OPNAV/01APR19//
REF/Q/MSG/CNO/011621ZNOV21//
REF/R/MSG/CNO/221849ZFEB22//

NARR/REF A IS NAVADMIN 190/21, 2021-2022 NAVY MANDATORY COVID-19 VACCINATION
AND REPORTING POLICY.

REF B IS NAVADMIN 225/21, COVID-19 CONSOLIDATED DISPOSITION AUTHORITY
(CCDA).

REF C IS NAVADMIN 256/21, CCDA GUIDANCE TO COMMANDERS.

REF D IS NAVADMIN 283/21, CCDA EXECUTION GUIDANCE TO COMMANDERS.

REF E IS THE SECRETARY OF THE DEFENSE MEMO MANDATING CORONAVIRUS DISEASE 2019
VACCINATION FOR DEPARTMENT OF DEFENSE SERVICE MEMBERS.

REF F IS ALNAV 062/21, 2021-2022 DEPARTMENT OF THE NAVY MANDATORY COVID-19
VACCINATION POLICY.

REF G IS MANUAL OF THE MEDICAL DEPARTMENT, NAVMED P-117, ARTICLE 15-105
(3)(n)(9).

REF H IS TRIDENT ORDER NUMBER 12, MANDATORY VACCINATION FOR COVID-19.
REF I IS U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS ORDER ON
MOTIONS FOR CLASS CERTIFICATION AND CLASS-WIDE PRELIMINARY INJUNCTION.
REF J NAVADMIN 083/22, CCDA INTERIM GUIDANCE REGARDING MEMBERS REQUESTING
RELIGIOUS ACCOMMODATION FROM COVID-19 VACCINATION REQUIREMENTS.
REF K IS BUPERSINST 1730.11A CH-1, STANDARDS AND PROCEDURES GOVERNING THE
ACCOMMODATION OF RELIGIOUS PRACTICES.
REF L IS MILPERSMAN 1730-020, IMMUNIZATION EXEMPTIONS FOR RELIGIOUS BELIEFS.
REF M IS MILPERSMAN 1910-704, DETERMINING SEPARATION AUTHORITY.
REF N IS NAVADMIN 093/22, U.S. NAVY COVID-19 STANDARDIZED OPERATIONAL
GUIDANCE 6.0.
REF O IS MPM 1160-030, ENLISTMENTS AND REENLISTMENTS UNDER CONTINUOUS
SERVICE CONDITIONS.
REF P IS OPNAVINST 1160.8B, SELECTIVE REENLISTMENT BONUS PROGRAM.
REF Q IS NAVADMIN 249/21, CCDA DATA REPORTING REQUIREMENTS.
REF R IS NAVADMIN 042/22, UPDATED COVID CONSOLIDATED DISPOSITION AUTHORITY
DATA REPORTING REQUIREMENTS AND LESSONS LEARNED.

RMKS/1. Purpose. To provide additional guidance regarding the actions directed in references (a) through (h) for Navy service members who requested religious accommodation from the COVID-19 vaccination requirement. These service members were certified by the U.S. District Court order in reference (i) as members of a class action in the case of U.S. Navy SEALS 1-26, et al., versus Secretary of Defense Lloyd J. Austin, III, et al. This message supersedes and replaces guidance previously provided in reference (j).

2. Policy. To ensure compliance with the court order in reference (i), this NAVADMIN continues to suspend separation processing and certain adverse administrative consequences of COVID-19 vaccine refusal for Navy service members who submitted requests for religious accommodation from the COVID-19 vaccine requirement. In line with a recent decision of the U.S. Supreme Court, the Navy may continue to consider the unvaccinated status of Navy service members when making deployment, assignment, and other operational decisions.

3. Applicability. This NAVADMIN applies only to Navy service members who have submitted requests for religious accommodation from the COVID-19 vaccine requirement in line with references (k) and (l). Adverse administrative consequences and separation processing described in references (a) through (h) continue to apply for personnel who have not submitted requests for religious accommodation.

4. Action

4.a. Navy service members with approved or pending COVID-19 vaccination religious accommodation requests or appeals have not refused the vaccine as defined in references (b) and (c). As such, these service members shall not be processed for separation or be subject to adverse actions as outlined in references (a) through (h).

4.b. The following applies only to Navy service members whose request for religious accommodation from the COVID-19 vaccine requirement has been denied or disapproved on appeal.

4.b.1. Separation Processing.

4.b.1.a. Involuntary Separation Processing. Officer and enlisted involuntary separation processing is suspended. Reports of misconduct not already complete shall not be forwarded. In cases where commands have received formal direction to involuntarily separate members within ten days based on misconduct (vaccine refusal) and those members have not yet separated, DD-214s shall not be issued and members are directed to remain on active duty, pending additional guidance. Commands must communicate with the servicing Personnel Support Detachment or equivalent in order to halt processing. Additionally, commands shall inform Navy Personnel Command PERS-832 (enlisted), PERS-834 (officers), or PERS-913 (SELRES) in cases where service members awaiting separation still desire to separate.

4.b.1.b. Voluntary Separation. Voluntary resignation, retirement, or regular service expiration (EAOS) may continue. Members who submitted requests for religious accommodation may cancel or amend previous voluntary retirement requests or requests to transfer to the Fleet Reserve. Time is of the essence for updated requests. Members who previously submitted a voluntary resignation or retirement for 1 June 2022 or earlier who no longer wish to retire or resign must submit cancellation requests through NSIPS for final adjudication. In order to expedite processing, members and commands are directed to include "Cancellation of retirement or resignation request due to Religious Accommodation submission" in their corresponding NSIPS requests.

4.b.1.c. Other Involuntary Separation Bases. In cases involving a basis for involuntary separation other than COVID-19 vaccine refusal, separation processing shall continue on that distinct basis. The CCDA is no longer the enlisted separation authority for such separations. Determine separation authority per reference (m) and re-notify as required.

4.b.2. Fitness Reports and Evaluations. No new adverse fitness reports and enlisted evaluations relating to COVID-19 vaccine refusal shall be prepared or issued. Unexecuted (i.e. not transmitted to NPC) adverse fitness reports and enlisted evaluations relating to COVID-19 vaccine refusal should be discarded. Previously submitted adverse fitness reports and evaluations will not be considered adverse, and will be removed from permanent records until otherwise directed.

4.b.3. Bonus, Special Pays, and Incentive Pays. Bonuses, special pays and incentive pays are considered unearned for personnel who have been removed from assignment based on deployment and other operational decisions. Reference (c) provides guidance on required actions for members with unearned

bonuses, special pays and incentives.

4.b.4. Education and SkillBridge. Disqualification for educational benefits and SkillBridge participation is suspended.

4.b.5. Reenlistment and Extensions. Reenlistments and extensions are authorized. Effective immediately, Sailors previously denied reenlistment or extension opportunities due to CCDA policy contained in references (c) and (d) are authorized to reenlist or extend, so long as they remain retention eligible in all other respects as outlined in reference (o). Commands can use this NAVADMIN as authority to allow members to extend for a reasonable time if required to suspend separation processing. Per reference (p), members are reminded all eligibility requirements for Selective Reenlistment Bonuses (SRB) must be met, including a minimum 3-year reenlistment.

4.b.6. Promotion, Advancement, and Frocking. Promotion, advancement and frocking are authorized if existing promotion/advancement authority is in effect.

4.b.6.a. Withheld or Delayed Officer Promotions. Promotion recommendations will be routed for SECNAV determination in line with SECNAVINST 1420.3 or 1412.6M, as applicable.

4.b.6.b. Withdrawn or Withheld Enlisted Advancements. Enlisted Sailors will be eligible for the next advancement cycle or board. Promotion, advancement and frocking are authorized if existing promotion/advancement authority is in effect.

4.b.7. Warfare Qualifications, Additional Qualification Designators (AQDs), and Navy Enlisted Classifications. The warfare qualifications, AQDs, NECs, and sub-specialties of Navy service members are important considerations when making deployment, assignment, and other operational decisions involving those members. Community sponsor flag officers remain authorized to consider the unvaccinated status of a Navy service member when deciding to award or remove a warfare qualification, AQD, NEC, or sub-specialty. Any decision to award or remove a warfare qualification, AQD, NEC, or sub-specialty should consider the impact of the members unvaccinated status on performing the mission and duties associated with the warfare qualification, AQD, NEC, or sub-specialty, and should remain consistent with current community policies and normal practices for Navy service members who do not maintain deployability or individual readiness. These decisions must remain administrative rather than punitive.

4.b.8. Detachment for Cause. Detachment for cause for COVID-19 vaccine refusal is not authorized. Reassignment decisions, including decisions to relieve members of their assigned duties, remain an operational decision subject to the discretion of the cognizant commander. Previously executed detachments for cause will not be considered adverse at this time, will be removed from permanent records until otherwise directed, and shall not be

commented on in subsequent fitness reports or evaluations.

4.b.9. Reserve Affiliation. Navy service members otherwise separating from active service may apply for affiliation with the Reserve Component.

5. Transfer and Assignment. The Navy will continue to consider the unvaccinated status of Navy service members when making deployment, assignment, and other operational decisions. Reference (n) (series), regarding the assignment of unvaccinated personnel to operational or deployable units, continues to apply.

6. Screening Testing. All unvaccinated Navy service members remain subject to screening testing against COVID-19, where required.

7. Reporting. Database reporting in line with reference (q) continues to apply. Commanders are directed to continue updating the CCDA database with the appropriate entry each time there is a change in vaccination status.

8. Accommodation Request Receipt. In the case of all previously submitted religious accommodation requests, if a command did not receive confirmation of receipt from OPNAV N131, send an email with the members identifying information to the Religious Accommodations Program Manager at ALTN_Navy_Religious_Accommodations(at)navy.mil.

9. If in doubt as to how to adjudicate issues related to this guidance, Commanders should seek guidance from their chain of command, their staff judge advocate, and/or the CCDA before acting. Commands without an assigned legal advisor may seek legal advice from a Region Legal Service Office. In all cases, Commanders are accountable to ensure the health and safety of their command while treating every Navy service member with dignity and respect.

10. Points of contact.

PERS-8 Active/FTS enlisted separations: *832vaccineadseps.fct(at)navy.mil*

PERS-8 Officer separations: *PERS-834(at)navy.mil*

PERS-8 Active/FTS/TAR enlisted retirements:

Enlisted_Active_Duty_Retirements(at)navy.mil

PERS-8 Active/FTS/TAR officer retirements: *pers_835_retirements(at)navy.mil*

PERS-8 Officer and enlisted promotion delays:

NPC_promotionwithholds.fct(at)navy.mil

PERS-92 Officer and enlisted definite recalls: *PERS-92(at)navy.mil*

PERS-9 Reserve enlisted separations: *913vaccineadseps.fct(at)navy.mil*

PERS-97 Officer transitions: *cto.officer(at)navy.mil*

PERS-97 Enlisted transitions: *cto.enlisted(at)navy.mil*

BUPERS-32 Selective Reenlistment Bonuses: *mill_incen_pays.fct(at)navy.mil*

OPNAV POC: CAPT Jason Grizzle, *ALTN_N1_NAVY_SCR.FCT(AT)NAVY.MIL*

11. Released by VADM John B. Nowell Jr, N1, COVID Consolidated Disposition Authority.

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SUBJ/COVID-19 CONSOLIDATED DISPOSITION AUTHORITY (CCDA)//

REF/A/DOC/SD/24AUG21/
REF/B/MSG/SECNAV/302126ZAUG21/
REF/C/MSG/CNO/311913ZAUG21/
REF/D/DOC/BUMED/7OCT13//
REF/E/DOC/BUPERS/16MAR20//
REF/F/DOC/OPNAV/15AUG20//
NARR/REF A IS THE SECRETARY OF DEFENSE MEMO MANDATING CORONAVIRUS DISEASE
2019 VACCINATION FOR DEPARTMENT OF DEFENSE SERVICE MEMBERS.
REF B IS ALNAV 062/21, 2021-2022 DEPARTMENT OF NAVY MANDATORY COVID-19
VACCINATION POLICY.
REF C IS NAVADMIN 190/21, 2021-2022 NAVY MANDATORY COVID-19 VACCINATION AND
REPORTING POLICY.
REF D IS BUMEDINST 6230.15B, IMMUNIZATIONS AND CHEMOPROPHYLAXIS FOR THE
PREVENTION OF INFECTIOUS DISEASE.
REF E IS BUPERSINST 1730.11A, STANDARDS AND PROCEDURES GOVERNING THE
ACCOMMODATION OF RELIGIOUS PRACTICES.
REF F IS MILPERSMAN 1730-020, IMMUNIZATION EXEMPTIONS FOR RELIGIOUS
BELIEFS.//
POC/OPNAV/CAPT STEVEN TARR III, (703) 614-9250//EMAIL:
STEVEN.TARR1.MIL(AT)US.NAVY.MIL

RMKS/1. Purpose. This NAVADMIN announces the assignment of the Chief of Naval Personnel as the COVID Consolidated Disposition Authority (CCDA), and provides procedural guidance and reporting requirements for administrative disposition of individual Navy service members, active duty and Selected Reserve, who are not fully vaccinated per references (a) through (c).

2. Policy. In order to maximize readiness, it is the policy goal of the U.S. Navy to achieve a fully vaccinated force against the persistent and lethal threat of COVID-19.

2.a. In support of the above stated policy, and as directed by the Secretary of the Navys lawful order, the Navy has commenced a mandatory vaccination campaign per references (a) through (c). Navy service members refusing the

COVID-19 vaccination, absent a pending or approved exemption, shall be processed for administrative separation per this NAVADMIN and supporting references. To ensure a fair and consistent process, separation determinations will be centralized under the CCDA as outlined in the paragraphs below.

2.b. To date, over 98 percent of active duty U.S. Navy service members have met their readiness responsibility by completing or initiating a COVID-19 vaccination series. We applaud your commitment to ensuring the continued readiness of our worldwide deployable Navy. Tragically, there have been 164 deaths within the Navy family due to COVID-19, far exceeding the combined total of all other health or mishap related injuries and deaths over the same time period. 144 of these were not immunized and 20 had an undisclosed immunization status.

3. Definitions. For the purposes of this NAVADMIN, the following terms are defined.

3.a. Navy Service Members. Active-duty service members and service members in the Selected Reserve only. Service members in the Individual Ready Reserve and U.S. Naval Academy and Naval Reserve Officers Training Corps midshipmen remain subject to the vaccine mandates in references (a) and (b), but will be adjudicated per their governing instructions rather than this NAVADMIN.

3.b. Active-Duty Navy Service Members. Active-duty Navy service members includes members of the Active Component and members of the Reserve Component on active duty in full time support (FTS).

3.c. Refusing the Vaccine. A Navy service member refusing the vaccine is one who has: (1) received a lawful order to be fully vaccinated against COVID-19; (2) is not or will not be fully vaccinated on the date required by the order; and (3) does not have a pending or approved exemption request per references (d) through (f).

3.d. Fully Vaccinated. Service members are considered fully vaccinated two weeks after completing an approved COVID-19 vaccination series per reference (c).

3.e. Senior Leader. A Navy senior leader is a flag officer or flag officer select, regardless of assignment; an officer serving as a commander, deputy commander, commanding officer, executive officer, chief of staff, chief staff officer, or officer in charge; or an enlisted member serving as a command master chief, chief of the boat, senior enlisted advisor, or command senior enlisted leader.

4. Deadlines. Per references (a) through (c), active duty Navy service members must be fully vaccinated against COVID-19 NLT 28 November 2021, and Ready Reserve Navy service members NLT 28 December 2021. New accessions must be vaccinated as soon as practicable following service entry.

4.a. For requested exemptions that are denied, specific instructions regarding the follow-on vaccination timeline or separation adjudication process will be included in the denial letter.

4.b. Administrative actions per this NAVADMIN may begin as soon as a Navy service member meets the definition of refusing the vaccine in paragraph 3.c.

5. Disposition Authority

5.a. Designation of the CCDA. The Chief of Naval Personnel (CNP) is the CCDA. The Chief of Navy Reserve (CNR) will provide support to the CCDA for cases involving Navy service members in the Selected Reserve.

5.b. Authorities for Vaccination Refusal. The CCDA is the officer show cause authority and enlisted separation authority for Navy service members who refuse the COVID-19 vaccine, except Entry Level Separation (ELS). For ELS, commanders and commanding officers are separation authorities per paragraph 6.b. Commanders and commanding officers will initiate administrative separation processing per paragraphs

7.a. and 7.b. The Vice Chief of Naval Operations retains authority for non-judicial punishment and courts-martial. Involuntary extension of enlistments is not authorized on the basis of administrative or disciplinary action for vaccination refusal. The CCDA may seek recoupment of applicable bonuses, special and incentive pays, and the cost of training and education for service members refusing the vaccine.

5.c. Other Misconduct. The withholding of disposition authority in reference (c) and this NAVADMIN does not extend to other misconduct, which may include misconduct related to vaccine refusal such as failing to wear a mask when required, falsifying vaccination records, or not complying with COVID testing requirements. If in doubt, commanders, commanding officers, and officers in charge should consult with their servicing staff judge advocate in determining disposition authority.

5.d. Separation Authority for Vaccine Refusal That Includes Other Misconduct. If a Navy service member is processed for administrative separation because of vaccine refusal that includes other misconduct, the CCDA will serve as the officer show cause authority or enlisted separation authority in accordance with paragraph 5.b.

5.e. Professional Qualifications. For Navy service members refusing the vaccine, the CCDA retains the authority for administrative processes regarding removal of warfare qualifications, additional qualification designations (AQD), Navy Enlisted Classifications (NEC), or sub-specialties, except in cases where removal authority is otherwise authorized by law or Executive Order (e.g. Director, Naval Nuclear Propulsion Program regarding nuclear qualifications).

5.f. Other Armed Forces Members Assigned to Navy Commands. For vaccine refusal cases involving Soldiers, Airmen, Guardians, Marines, or Coast Guardsmen assigned to Navy commands, the Navy commander, commanding officer, or officer-in-charge will report the case to the CCDA.

5.g. Navy Service Members in Non-Navy Billets. The CCDA will be responsible for identifying, coordinating, and adjudicating Navy service members refusing the vaccine while serving in non-Navy billets (e.g., Joint, NATO).

6. Administrative Disposition Guidance; Immediate Actions.

6.a. Unvaccinated Senior Leaders. An unvaccinated senior leader without a pending or approved exemption calls into question the Navy's trust and confidence regarding their ability to ensure unit readiness or to maintain good order and discipline. These senior leaders must begin vaccination

immediately. This constitutes a lawful order. The immediate superior in command (ISIC), commander, or commanding officer, as applicable, will notify in writing senior leaders refusing the vaccine that they have five (5) calendar days to initiate corrective action. If the senior leader does not begin a vaccination series or request an exemption within that five-day period, the ISIC, commander, or commanding officer will relieve the senior leader and initiate detachment for cause (DFC) per MILPERSMAN 1611-010, MILPERSMAN 1611-020, and MILPERSMAN 1616-010, as applicable.

6.a.(1). A sample report of misconduct is available at: <https://www.mnp.navy.mil/group/navy-covid-19-reporting>. The report will note that authority for disciplinary action is withheld by reference (c) and this NAVADMIN, and as such no disciplinary action was taken.

6.a.(2). Established notification procedures for relief of command triad members apply. The relief of any flag officer or officer selected for promotion to O-7 under this paragraph will be reported to the Naval Inspector General for review per DoDI 1320.04 and SECNAVINST 5800.12C.

6.b. Entry Level Separation (ELS). ELS processing is authorized per paragraph 5.b above per MILPERSMAN 1910-154 for Navy service members in an entry level status refusing the vaccine. ELS shall be reported per paragraph 9.

6.c. Because COVID-19 vaccination is now mandatory, commanders, commanding officers, or officers in charge, with the concurrence of the first flag officer in the chain of command, are authorized to temporarily reassign Navy service members who refuse the COVID-19 vaccine, regardless of exemption status, based on operational readiness or mission requirements.

6.d. Promotion, Transfer and Reenlistment. Commands shall not allow those refusing the vaccine to promote/advance, reenlist, or execute orders, with the exception of separation orders, until the CCDA has completed disposition of their case. Transfer orders may be cancelled by Navy Personnel Command.

7. Administrative Disposition Guidance; Future Actions. The actions in this paragraph shall be executed per paragraph 4.

7.a. Officer Administrative Separation. In the case of any officer, including any officer senior leader, who is refusing the vaccine, the cognizant commander or commanding officer shall submit a report of misconduct to Commander, Navy Personnel Command (PERS-834) per MILPERSMAN 1611-010. A template report is available at: <https://www.mnp.navy.mil/group/navy-covid-19-reporting>.

Per SECNAVINST 1920.6D, the CCDA, as the show cause authority, has directed mandatory show cause processing for all officers on the bases of Misconduct, Moral or Professional Dereliction, and Substandard Performance, with the least favorable characterization of service as GENERAL (under honorable conditions), unless inclusion of another basis for separation warrants other than honorable. Additionally, report flag officers or officers selected for promotion to O-7 who are refusing the vaccine to the Naval Inspector General for review per DoDI 1320.04 and SECNAVINST 5800.12C. Officers separated under this subparagraph will not be eligible for involuntary separation pay and will be subject to recoupment of any unearned special or incentive pays.

7.b. Enlisted Administrative Separation. In the case of any enlisted

service member, including any enlisted senior leader, who is refusing the vaccine, the cognizant commander or commanding officer shall initiate the process for administrative separation under MILPERSMAN 1910-142, Commission of a Serious Offense, plus any additional basis known at the time of processing. The provisions of MILPERSMAN 1910 (series) apply; treat vaccine refusal cases as though they were listed in MILPERSMAN 1910-233. The CCDA is the separation authority unless a higher separation authority is required by MILPERSMAN 1910-704. The least favorable characterization of service shall be GENERAL (under honorable conditions), unless inclusion of another basis for separation warrants other than honorable. Enlisted service members separated under this subparagraph will not be eligible for involuntary separation pay and will be subject to recoupment of any unearned special or incentive pays.

7.c. Officer Promotion Delay. Per SECNAVINST 1420.3 or SECNAVINST 1412.6M, commanders and commanding officers shall delay the promotion of any officer refusing the vaccine. Delays shall be based upon pending administrative action and physical qualification. PERS-833 will make formal written notice to the officer following written notice by the commanding officer.

7.d. Enlisted Advancement Withhold. Per BUPERSINST 1430.16G, commanding officers shall withhold the advancement of any enlisted member refusing the vaccine. Advancement withholds shall be based upon pending administrative action and physical qualification.

7.e. Documentation in Fitness Reports and Enlisted Evaluations. Per MILPERSMAN 1610-015, failure to comply with individual medical readiness responsibilities will be documented in fitness reports and evaluations. Failure to be fully vaccinated against COVID-19 is a medical readiness failure.

7.e.(1). Commanding officers shall identify those refusing the vaccine and verify that the members have an initial counseling NAVPERS 1070/13 per MILPERSMAN 1610-015 in their local file (Page 13). If necessary, the initial NAVPERS 1070/13 directed in MILPERSMAN 1610-015 shall be issued.

The NAVPERS 1070/13 counseling and warning ordering vaccination per NAVADMIN 190/21 may serve as the subsequent formal counseling required in MILPERSMAN 1610-015.

7.e.(2). Within 30 days of a Navy service member refusing the vaccine, reporting seniors shall issue a Special Fitness Report/Evaluation per MILPERSMAN 1610-015 and BUPERSINST 1610.10E. In addition to documenting failure to comply with individual medical readiness responsibilities, the report shall document other facts as appropriate, including any misconduct related to UCMJ Art. 92.

7.f. Terminal Leave. Navy service members who commence terminal leave on or before the applicable deadline in paragraph 4 are administratively exempted from vaccine requirements per BUMEDNOTE 6150 of 21 Sep 21 and BUMEDINST 6230.15B.

7.g. The authority for commanding officers in MILPERSMAN 1730-020 to revoke an approved religious accommodation exemption from COVID-19 vaccination is withheld.

8. Reporting

8.a. Officers and E-6 through E-9. Per MILPERSMAN 1611-010 and MILPERSMAN 1616-040, commands are required to inform PERS-834 (officers) and PERS-832 (enlisted) of incidents that could result in adverse action. This applies to vaccine refusal. Reports should flag whether the service member is pending transfer or promotion/advancement.

8.b. E-5 and Below. Per MILPERSMAN 1616-050, misconduct not yet finally adjudicated need not be reported to Navy Personnel Command.

9. Data Collection and Record Retention

9.a. Navy echelon one and two commanders will forward information regarding those refusing the vaccine within their administrative chains of command to CNP for active duty Navy service members and CNR for Ready Reserve service members per CCDA guidance.

9.b. All commands must retain all records, materials and written communications, including emails, pertaining to vaccine refusals per SECNAV M-5210.1.

10. Points of contact. OPNAV POC: CAPT Steven Tarr III, comm (703) 614-9250, e-mail: steven.tarr1.mil(at)us.navy.mil. BUMED POC: BUMED COVID-19 CRISIS ACTION TEAM / (703) 681-1125 /e-mail: USN.NCR.BUMEDFCHVA.MBX.BUMED---2019-NCOV-RESPONSE-CELL(AT)MAIL.MIL OJAG POC: CDR Justin Pilling, comm (703) 614-5757, e-mail: justin.d.pilling@navy.mil.

11. Released by ADM William Lescher, Vice Chief of Naval Operations, and VADM John B. Nowell, Jr., Chief of Naval Personnel.//

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ROUTINE
R 152239Z NOV 21 MID600051180185U
FM CNO WASHINGTON DC
TO NAVADMIN
INFO CNO WASHINGTON DC
BT
UNCLAS

NAVADMIN 256/21

PASS TO OFFICE CODES:
FM CNO WASHINGTON DC//N1//
INFO CNO WASHINGTON DC//N1//
MSGID/GENADMIN/CNO WASHINGTON DC/CNO/NOV//

SUBJ/CCDA GUIDANCE TO COMMANDERS//

REF/A/DOC/SD/24AUG21//
REF/B/MSG/SECNAV/302126ZAUG21//
REF/C/MSG/OPNAV/311913ZAUG21//
REF/D/MSG/OPNAV/132050Z OCT21//
REF/E/DOC/BUMED/7OCT13//
REF/F/DOC/BUPERS/16MAR20//
REF/G/DOC/OPNAV/15AUG20//
REF/H/DOC/BUMED/03SEP21//
REF/I/DOC/OPNAV/10NOV09//
REF/J/MSG/OPNAV/011621ZNOV21//
REF/K/DOC/OPNAV/02SEP09//
REF/L/DOC/OPNAV/30OCT19//
REF/M/DOC/OPNAV/09OCT19//
REF/N/DOC/OPNAV/01OCT18//
REF/O/DOC/BUPERS/07MAY20//
REF/P/DOC/OPNAV/09OCT19//
REF/Q/DOC/OPNAV/29MAY07//
REF/R/DOC/OPNAV/07DEC06//
REF/S/DOC/OPNAV/25OCT21//
REF/T/DOC/OPNAV/05OCT17//
REF/U/DOC/OPNAV/01APR19//
REF/V/DOC/OPNAV/17JAN20//
REF/W/DOC/OPNAV/11APR21//
REF/X/DOC/SECNAV/30OCT18//
REF/Y/DOC/BUPERS/19SEP18//
REF/Z/DOC/SECNAV/28MAR19//
REF/AA/DOC/SECNAV/15APR19//

NARR/REF A IS THE SECRETARY OF DEFENSE MEMO MANDATING CORONAVIRUS DISEASE
2019 VACCINATION FOR DEPARTMENT OF DEFENSE SERVICE MEMBERS.

REF B IS ALNAV 062/21, 2021-2022 DEPARTMENT OF THE NAVY MANDATORY COVID-19 VACCINATION POLICY.

REF C IS NAVADMIN 190/21, 2021-2022 NAVY MANDATORY COVID-19 VACCINATION AND REPORTING POLICY.

REF D IS NAVADMIN 225/21, COVID-19 CONSOLIDATED DISPOSITION AUTHORITY (CCDA).

REF E IS BUMEDINST 6230.15B, IMMUNIZATIONS AND CHEMOPROPHYLAXIS FOR THE PREVENTION OF INFECTIOUS DISEASE.

REF F IS BUPERSINST 1730.11A, STANDARDS AND PROCEDURES GOVERNING THE ACCOMMODATION OF RELIGIOUS PRACTICES.

REF G IS MILPERSMAN 1730-020, IMMUNIZATION EXEMPTIONS FOR RELIGIOUS BELIEFS.

REF H IS BUMEDNOTE 6300, NAVY CORONAVIRUS DISEASE 2019 VACCINE MEDICAL TEMPORARY, AND MEDICAL PERMANENT EXEMPTION FOR MEDICAL CONTRAINDICATION APPROVAL PROCESS.

REF I IS MILPERSMAN 1910-154, SEPARATION BY REASON OF ENTRY LEVEL PERFORMANCE AND CONDUCT.

REF J IS MILPERSMAN 1910-600, FORWARDING CASES TO THE SEPARATION AUTHORITY (SA).

REF K IS NAVADMIN 249/21, CCDA REPORTING REQUIREMENTS.

REF L IS MILPERSMAN 1611-010, OFFICER PERFORMANCE AND SEPARATIONS FOR CAUSE.

REF M IS MILPERSMAN 1616-040, ENLISTED PERFORMANCE (E-6/7/8/9).

REF N IS MILPERSMAN 1610-015, DOCUMENTATION ON FITNESS REPORTS AND PERFORMANCE EVALUATIONS FOR FAILURE TO MAINTAIN DEPLOYABILITY OR INDIVIDUAL MEDICAL READINESS.

REF O IS BUPERSINST 1610.10E, NAVY PERFORMANCE EVALUATION SYSTEM.

REF P IS MILPERSMAN 1616-050, ENLISTED PERFORMANCE (E-5 AND BELOW).

REF Q IS MILPERSMAN 1320-308, PERMANENT CHANGE OF STATION (PCS) TRANSFER ORDER EXECUTION.

REF R IS POLICY DECISION MEMORANDUM 003-06, ASSIGNMENT INCENTIVE PAY PROGRAM.

REF S IS POLICY DECISION MEMORANDUM 002-21, SEA DUTY INCENTIVE PAY PROGRAM.

REF T IS OPNAVINST 1160.6C, SPECIAL DUTY ASSIGNMENT PAY PROGRAM.

REF U IS OPNAVINST 1160.8B, SELECTIVE REENLISTMENT BONUS PROGRAM.

REF V IS OPNAVINST 1520.23C, GRADUATE EDUCATION.

REF W IS MILPERSMAN 1160-040, EXTENSION OF ENLISTMENTS.

REF X IS SECNAVINST 1420.2B, FROCKING OF COMMISSIONED OFFICERS.

REF Y IS BUPERSINST 1430.16G, ADVANCEMENT MANUAL FOR ENLISTED PERSONNEL OF THE U.S. NAVY AND U.S. NAVY RESERVE.

REF Z IS SECNAVINST 1420.3, DEPARTMENT OF THE NAVY COMMISSIONED OFFICER PROMOTION PROGRAM.

REF AA IS SECNAVINST 1412.6M, PROMOTION OF OFFICERS TO THE GRADE OF LIEUTENANT (JUNIOR GRADE) IN THE NAVY AND TO THE GRADE OF FIRST LIEUTENANT IN THE MARINE CORPS.

RMKS/1. Purpose. This NAVADMIN provides guidance to Commanders regarding Navy service members who fail to obey a lawful order by refusing the COVID-19 vaccine directed in references (a) through (c).

2. Policy. In order to ensure a fully vaccinated force, U.S. Navy policy is to process for separation all Navy service members who refuse the lawful

order to receive the COVID-19 vaccination and do not have an approved exemption. Specific administrative actions are directed herein, however, additional administrative actions and any punitive actions based solely on vaccine refusal continue to be withheld.

2.a. The least favorable characterization of service for Navy service members refusing the vaccine, without extenuating circumstances, will be GENERAL (under honorable conditions). A general discharge will, at the discretion of the Department of Veterans Affairs (VA), result in the loss of eligibility for some VA benefits such as the GI Bill, to include the transfer of GI Bill benefits to dependents.

2.b. Navy service members with approved or pending COVID-19 vaccination exemption requests shall not be processed for separation or be subject to the other administrative actions described in this NAVADMIN due solely to their lack of COVID-19 vaccination. However, in line with reference (d), Navy service members who are not vaccinated, regardless of exemption status, may be temporarily reassigned with concurrence of the first flag officer in the administrative chain of command based on operational readiness and mission requirements. Where applicable, the first flag officer in the operational chain of command should be notified regarding temporary reassignments.

2.c. Navy service members whose COVID-19 vaccination exemption request is denied are required to receive the COVID-19 vaccine as directed by the exemption adjudicating authority or commence vaccination within 5 days of being notified of the denial, if the exemption adjudicating authority does not specify. Navy service members who refuse the COVID-19 vaccine after expiration of the specified time to commence vaccination, will be processed for separation and be subject to the other administrative actions described in this NAVADMIN and reference (d).

2.d. Navy service members who initiate vaccination such that they cannot meet the deadline described in references (b) and (c) or the applicable deadline established by receipt of an exemption denial, should notify their chain of command as soon as possible. The Navy service members command must expeditiously report the case to the COVID Consolidated Disposition Authority via *PERS-834(at)navy.mil* for officers and *PERS832COVIDVAXADSEPS(at)us.navy.mil* for enlisted, in order to expedite determination regarding whether to initiate or suspend administrative separation and the other actions directed by this NAVADMIN.

2.e. Notwithstanding the policy to separate Navy service members refusing the vaccine, each and every Navy service member shall be treated with dignity and respect at all times throughout the execution of the policies described herein.

3. Definitions.

3.a. Navy Service Members. Active-duty service members and service members

in the Selected Reserve only. Service members in the Individual Ready Reserve and U.S. Naval Academy (USNA) and Naval Reserve Officers Training Corps (ROTC) midshipmen remain subject to the vaccine mandates in references (a) through (c), but will be adjudicated per their governing instructions.

3.b. Active-Duty Navy Service Members. Active-duty Navy service members include members of the Active Component and members of the Reserve Component on active duty in a full time support (FTS) status (also known as Training and Administration of the Reserve (TAR)).

3.c. Refusing the Vaccine. A Navy service member refusing the vaccine is one who has: (1) received a lawful order to be fully vaccinated against COVID-19, (2) is not or will not be fully vaccinated on the date required by the order, and (3) does not have a pending or approved exemption request per references (e) through (h).

3.d. Fully Vaccinated. Service members are considered fully vaccinated two weeks after completing an approved COVID-19 vaccination series per reference (c).

3.e. Commanders. Commanders, Commanding Officers and Officers-in-Charge of naval units or organizations.

4. General Guidance.

4.a. Continue to hold submission of administrative separation (ADSEP) cases or convening administrative separation boards until directed by the CCDA.

4.a.(1). Final directions for submission of misconduct and ADSEP requests based solely on vaccine refusal are expected to be promulgated during the first week of December 2021. In preparation for submission, Commanders shall prepare Reports of Misconduct, applicable NAVPERS 1070/613s and any other supporting documents. Templates and additional information can be found at

<https://www.mynavyhr.navy.mil/Career-Management/Personnel-Conduct-Sep/Officer-Performance-Separation/> and
<https://www.mynavyhr.navy.mil/Career-Management/Personnel-Conduct-Sep/Enlisted-Separations/>. A NAVPERS 1070/613 specifically written for Navy service members who refuse the COVID-19 vaccine is located at
<https://www.mnp.navy.mil/group/navy-covid-19-reporting>
for Commanders use.

4.a.(2). Entry Level Separation (ELS). Commanders will continue separation of Navy enlisted service members refusing the vaccine who meet ELS criteria per MILPERSMAN (MPM) 1910-154. In accordance with MPM 1910-600, forward completed administrative separation records to PERS-832 via email at *[PERS832COVIDVAXADSEPS\(at\)us.navy.mil](mailto:PERS832COVIDVAXADSEPS@us.navy.mil)* for filing in members official military personnel file (OMPF).

4.b. Commanders will notify those Navy service members refusing the vaccine who are executing funded or no-cost TAD orders for training, or any other official purpose, to halt their assigned activity and return to their command within five working days.

4.c. Generally, Navy service members refusing the vaccine will continue in their assigned duties pending adjudication of separation processing and other applicable administrative actions described within this NAVADMIN. Commanders shall ensure appropriate risk mitigations remain in place to prevent the spread of COVID-19. If, in the Commanders judgment, a local reassignment becomes necessary, Commanders should coordinate disposition and timing with their Immediate Superior in Command (ISIC).

5. Administrative Disposition Guidance.

5.a. The data reporting required by NAVADMIN 249/21, reference (k), meets the requirements of MPM 1611-010 (officers) and MPM 1616-040 (enlisted) to inform PERS-834 (officers) and PERS-832 (enlisted) of incidents that could result in adverse action for officers and enlisted (E-6 through E-9). However, if a Navy service member refusing the vaccine (including those E5 and below) has a pending transfer, promotion or advancement: submit the additional information, as described below, as soon as feasible to ensure appropriate preemptive action is taken. Include *COVID-19 Vaccine Refusal* in the subject line of the email.

5.a.(1). Officers. Email *PERS-834(at)navy.mil* with members name, rank, brief description of the offense (e.g. COVID-19 Vaccine Refusal), pending promotion/advancement status, and the commands POC (Name, rank/rate, email and phone number).

5.a.(2). Enlisted. Email *PERS832COVIDVAXADSEPS(at)us.navy.mil* with members name, rank and rate, brief description of the offense (e.g. COVID-19 Vaccine Refusal), pending promotion/advancement status, and the commands POC (Name, rank/rate, email and phone number).

6. Documentation in Fitness Reports and Enlisted Evaluations.

6.a. Officers.

6.a.(1). In accordance with reference (d), within 30 days of a Navy service member refusing the vaccine, the reporting senior shall issue an adverse special Fitness Report (FITREP) per MPM 1610-015 and BUPERSINST 1610.10E. These reports should be submitted no earlier than the *to* date described below.

6.a.(2). The adverse special FITREP will document failure of the member to comply with Individual Medical Readiness responsibilities as outlined below. The adverse special FITREP shall document other facts as appropriate, including any additional misconduct associated with vaccine refusal, as

described in BUPERSINST 1610.10E. The *to* date in block 15 of this adverse special FITREP will be as follows: 2021Nov28 (active duty service members and FTS/TAR), 2021Dec28 (SELRES). For Navy service members who requested an exemption which was denied and subsequently refuse the vaccine, the *to* date in block 15 shall be 14 days after expiration of the specified time to commence vaccination as discussed in para 2.c. or the applicable date specified in the previous sentence, whichever is later.

6.a.(3). The adverse special FITREP will contain no greater than a 2.0 in block 35 (Military Bearing/Character) and no greater than a 2.0 in block 38 (Leadership). Block 42 (Promotion Recommendation) will be marked as *Significant Problems*. The following sentence must be the opening statement in block 41: *Member failed to maintain deployability or individual readiness standards by refusing the order to receive the COVID-19 vaccine.* A report without these marks and this statement will be rejected and returned for correction.

6.b. Enlisted members.

6.b.(1). In accordance with reference (d), within 30 days of a Navy service member refusing the vaccine, the reporting senior shall issue an adverse special evaluation per MPM 1610-015 and BUPERSINST 1610.10E. The adverse special evaluation will document failure of the member to comply with Individual Medical Readiness responsibilities as outlined below. The adverse special evaluation shall document other facts as appropriate, including any additional misconduct associated with vaccine refusal, as described in BUPERSINST 1610.10E. The *to* date in block 15 of this adverse special evaluation will be as follows: 2021Nov28 (active duty service members and FTS/TAR), 2021Dec28 (SELRES). For Navy service members who requested an exemption which was denied and subsequently refuse the vaccine, the *to* date in block 15 shall be 14 days after expiration of the specified time to commence vaccination as discussed in para 2.c. or the applicable date specified in the previous sentence, whichever is later. These reports should be submitted no earlier than the *to* date described above.

6.b.(2). E-1 to E-6 Evaluations. The adverse special evaluation will contain no greater than a 2.0 in block 36 (Military Bearing/Character) and no greater than a 2.0 in block 39 (Leadership). Block 45 (Promotion Recommendation) will be marked as *Significant Problems* and block 47 (Retention) will be marked as *Not Recommended*. The following sentence must be the opening statement in block 43: *Member failed to maintain deployability or individual readiness standards by refusing the order to receive the COVID-19 vaccine.* A report without these marks and this statement will be rejected and returned for correction.

6.b.(3). E-7 to E-9 Evaluations. The adverse special evaluation will contain no greater than a 2.0 in block 37 (Character) and no greater than a 2.0 in block 33 (Deckplate Leadership). Block 42 (Promotion Recommendation) will be marked as *Significant Problems*. The following sentence must be the

opening statement in block 41: *Member failed to maintain deployability or individual readiness standards by refusing the order to receive the COVID-19 vaccine.* A report without these marks and this statement will be rejected and returned for correction.

7. Permanent Change of Station (PCS) orders execution guidance. Navy service members refusing the vaccine who are under PCS orders will adhere to the following guidance.

7.a. Navy service members and dependents who have not yet initiated PCS travel shall not execute orders. Commands are directed to contact Navy Personnel Command (NPC) for follow-on guidance per MPM 1611-010, MPM 1616-040, and MPM 1616-050. NPC is standing by to address each specific case and will authorize entitlements based on current location and situation.

7.b. For Navy service members and/or dependents who have already initiated PCS travel, detaching and gaining commands shall make every effort to contact those service members to advise them of the requirements of this message. The service member should contact their detailer directly and each case will be evaluated by NPC on a case by case basis. Commands are directed to contact NPC for follow-on guidance per MPM 1611-010, MPM 1616-040 and MPM 1616-050. Per MPM 1320-308, members traveling under orders are considered to be attached to the gaining command.

7.c. Commanders should contact their ISIC to discuss impacts on manning resulting from this PCS orders execution guidance. ISICs should discuss manning impacts with their respective Type Commander N1, officer and enlisted community detailers, and placement coordinator (PERS 4013).

7.d. For new accession Navy service members in the accession training pipeline, (e.g. Recruit Training Command and A and C Schools) who refuse the vaccine and do not have a pending exemption request, Commanders will immediately interrupt their training, place them in an Interrupted Instruction (II) status and hold them at current activity.

7.e. For new accession Navy service members in the accession training pipeline, (e.g. Recruit Training Command and A and C Schools) who have a pending exemption request, Commanders will continue their accession level training (including transfer between schools), but will not transfer them to their ultimate assignment until adjudication of their exemption request. Once complete with all available accession level training, Commanders will place the service member in an Interrupted Instruction (II) status and hold them at current activity until the exemption request is adjudicated.

8. Bonuses, Special Pays and Incentive Pays. Navy service members refusing the vaccine may not enter into any new agreements for bonuses, special pays, or incentive pays and any unearned portion of current bonuses, special pays and incentive pays will be recouped in accordance with references (r) through

(u). Examples include, but are not limited to, the following: career retention bonuses, enlistment bonuses and incentive pays (such as flight pay). Bonuses, special pays and incentive pays become unearned when a Navy service member refusing the vaccine is no longer performing duties for which they are receiving such a bonus, special pay, or incentive pay (i.e. removed from assignment).

8.a. Bonuses, special pays and incentive pays become unearned as soon as one of the following criteria is met:

8.a.(1). Removed from the assignment.

8.a.(2). Associated NEC/AQD/warfare qualification is removed.

8.a.(3). Separated.

8.b. Actions required by Commanders with regard to special and incentive pays.

8.b.(1). For assignment or incentive pays, if a Navy service member is removed from an assignment, the Commander shall notify the office responsible for any special and incentive pays of the change of assignment. For Assignment Incentive Pay (AIP), notify PERS-40DD via email at *Mill_aip(at)navy.mil*. For Special Duty Incentive Pay notify PERS-40DD via email at *Mill_sdip(at)navy.mil*. For Special Duty Assignment Pay, notify the servicing Personnel Support Detachment/Transaction Support Center and the rating detailee.

8.b.(2). For bonuses, if a Navy service member is removed from an assignment and is no longer eligible for a bonus, notify the office responsible for that bonus. For Selective Reenlistment Bonuses, notify OPNAV (N130) via email at *nxag_N130D(at)navy.mil*.

8.b.(3). Upon removal from an assignment, Commanders will ensure the NAVPERS 1070/613 specifically written for Navy service members refusing the vaccine is completed and saved in the service members electronic service record. This NAVPERS 1070/613 can be found at *<https://www.mnp.navy.mil/group/navy-covid-19-reporting>*.

9. Education. Navy service members refusing the vaccine are not eligible to continue Navy education opportunities and those who fail to complete a service obligation incurred for participating in Navy funded full-time, part-time, or off-duty education programs per OPNAVINST 1520.23C will be required to reimburse the cost of the education received, prorated for the obligated time served.

9.a. Institutional Education. Navy service members refusing the vaccine who incurred a service obligation for an education benefit (e.g. USNA, ROTC,

Naval Postgraduate School, Health Professional Scholarship Program or in-residence Professional Military Education), will have any unearned portion of that education benefit recouped if separated before completing the service obligation. Navy service members refusing the vaccine (as defined in para. 3) currently enrolled in such an education program will be dis-enrolled from their program as soon as feasible and held at their institution or command pending administrative separation. Note: Current USNA and ROTC Midshipmen will be adjudicated by governing instructions as discussed in para. 3.a.

9.b. Tuition Assistance (TA). Navy service members refusing the vaccine are ineligible to receive TA. Commanders must withdraw command approval for any TA courses not yet convened. Commanders will direct withdrawal from TA courses which have convened and require proof of withdrawal. Navy service members will be responsible for reimbursing the Navy for the amount listed on the TA Authorization Voucher. Officers administratively separated prior to completing the statutory two year obligation for receipt of TA will incur a debt.

9.c. SkillBridge. Navy service members refusing the vaccine are not eligible to participate in the SkillBridge program. Commanders will immediately remove SkillBridge approval and recall Navy service members refusing the vaccine as indicated below.

9.c.(1). Navy service members assigned to commands in the Continental United States (CONUS) will return to their permanent duty station at their own cost within five days of recall order. If the command is deployed or underway, Sailors will report to the Transient Personnel Detachment in their home port.

9.c.(2). Navy service members assigned to commands outside the Continental United States (OCONUS) will report to the nearest CONUS Transient Personnel Detachment at their own cost as directed by their command within five days of recall order.

9.d. Navy Credentialing Opportunities Online (COOL). Navy service members refusing the vaccine are not eligible for Navy COOL funding for examinations or related credentialing fees. Commanders will withdraw approval of unexecuted vouchers and withhold future voucher approval for Navy service members refusing the vaccine.

10. Navy Training. In cases where there is a clearly defined service obligation that is not met, the cost of Navy training will be recouped, prorated to the obligated time served. Additionally, each case of a Navy service member refusing the vaccine will be evaluated for recoupment of training costs based on individual circumstances such as total cost, service obligation, and the Navy's realized return on investment for training received.

11. Reenlistments and Extensions. Navy service members refusing the vaccine are not eligible for re-enlistment, and may not extend their enlistment. If

a Navy service member refusing the vaccine has entered into an extension agreement that is not yet operative (has not yet taken effect), Commanders must cancel these agreements to extend enlistment. The inoperative extension can be cancelled by the personnel office by completing the cancellation section of NAVPERS 1070/621 or NAVPERS 1070/622 and processing the corresponding NSIPS event per MPM 1160-040.

12. Promotion and Advancement. Navy service members refusing the vaccine who are in a frocked status should be defrocked as soon as feasible (officers per SECNAVINST 1420.2B, enlisted per BUPERSINST 1430.16G). Spot promoted officers refusing the vaccine should be replaced as soon as feasible. Once removed from the applicable spot promote billet, the command should contact the members detailer and PERS-806 to remove the spot promotion.

12.a. Officer Promotion Delay. Commanders shall delay the promotion of any officer refusing the vaccine and shall submit a NAVPERS 1070/13 to *NPC_promotionwithholds.fct(at)navy.mil* stating the members promotion is delayed due to COVID-19 vaccine refusal (per SECNAVINST 1420.3 or SECNAVINST 1412.6M). Delays shall be based upon pending administrative action and physical qualification. Navy Personnel Command will make formal written notice to the officer following notification from the Commander. A NAVPERS 1070/613 specifically written for Navy service members who refuse the COVID-19 vaccine is located at *<https://www.mnp.navy.mil/group/navy-covid-19-reporting>* for Commanders use.

12.b. Enlisted Advancement Withhold. Commanders shall withhold the advancements of any enlisted member refusing the vaccine, to include preventing automatic Time-In-Rate advancements for E-2/E-3 and advancement for any Sailors in a frocked status for paygrades E-3 through E-9.

12.c. Enlisted Advancement Withdrawal. The date of the special adverse evaluation from paragraph 6.b. above constitutes a permanent withdrawal of advancement recommendation effective as of the date of the reporting seniors signature. An example NAVPERS 1070/13 for enlisted members pending advancement is available in BUPERSINST 1430.16G, Chapter 7.

13. Community sponsor flag officers are authorized to make determinations within their communities regarding removal of warfare qualifications, additional qualification designations (AQD), Navy Enlisted Classifications (NEC), or sub-specialties for Navy service members refusing the vaccine. Any decision to remove warfare qualifications, AQDs, NECs, or sub-specialties shall be consistent with current community policies and normal practices for Navy service members who do not maintain deployability or individual readiness through their own actions. These decisions, when based solely on refusing the vaccine, must be administrative in nature rather than punitive.

14. If in doubt as to how to adjudicate issues related to a Navy service member refusing the vaccine, Commanders should seek guidance from their chain of command, their staff judge advocate, and/or the CCDA before acting. In

all cases, Commanders are accountable to ensure the health and safety of their command while treating every Navy service member with dignity and respect.

15. Points of contact.

My Navy Career Center: 833-330-6622, *askmncc(at)navy.mil*.

Retirements and Separations (PERS-8): *MILL_Pers-8(at)navy.mil*,
(901) 874-3264.

Bonus Programs, Special and Incentive Pays (OPNAV N130D):
nxag_n130d(at)navy.mil.

Enlisted Force Plans and Policy (OPNAV N132): *NXAG_N132C(AT)navy.mil*.

OPNAV POC: CAPT Jason Grizzle, *ALTN_N1_NAVY_SCR.FCT(AT)NAVY.MIL*.

16. Released by VADM John B. Nowell, Jr, COVID Consolidated Disposition Authority.

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KAVANAUGH, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 21A477

LLOYD J. AUSTIN, III, SECRETARY OF DEFENSE,
ET AL. *v.* U. S. NAVY SEALS 1–26, ET AL.

ON APPLICATION FOR A PARTIAL STAY

[March 25, 2022]

The application for a partial stay presented to JUSTICE ALITO and by him referred to the Court is granted. The district court’s January 3, 2022 order, insofar as it precludes the Navy from considering respondents’ vaccination status in making deployment, assignment, and other operational decisions, is stayed pending disposition of the appeal in the United States Court of Appeals for the Fifth Circuit and disposition of the petition for a writ of certiorari, if such writ is timely sought. Should the petition for a writ of certiorari be denied, this order shall terminate automatically. In the event the petition for a writ of certiorari is granted, the order shall terminate upon the sending down of the judgment of this Court.

JUSTICE THOMAS would deny the application for a partial stay.

JUSTICE KAVANAUGH, concurring.

I concur in the Court’s decision to grant the Government’s application for a partial stay of the District Court’s preliminary injunction for a simple overarching reason: Under Article II of the Constitution, the President of the United States, not any federal judge, is the Commander in Chief of the Armed Forces. In light of that bedrock constitutional principle, “courts traditionally have been reluctant to intrude upon the authority of the Executive in military and national security affairs.” *Department of Navy v. Egan*, 484

KAVANAUGH, J., concurring

U. S. 518, 530 (1988). As the Court has long emphasized, moreover, the “complex, subtle, and professional decisions as to the composition, training, equipping, and control of a military force are essentially professional military judgments.” *Gilligan v. Morgan*, 413 U. S. 1, 10 (1973). Therefore, it is “difficult to conceive of an area of governmental activity in which the courts have less competence.” *Ibid.*

In this case, the District Court, while no doubt well-intentioned, in effect inserted itself into the Navy’s chain of command, overriding military commanders’ professional military judgments. The Court relied on the Religious Freedom Restoration Act. See 42 U. S. C. §2000bb–1(b). But even accepting that RFRA applies in this particular military context, RFRA does not justify judicial intrusion into military affairs in this case. That is because the Navy has an extraordinarily compelling interest in maintaining strategic and operational control over the assignment and deployment of all Special Warfare personnel—including control over decisions about military readiness. And no less restrictive means would satisfy that interest in this context.

The Court “should indulge the widest latitude” to sustain the President’s “function to command the instruments of national force, at least when turned against the outside world for the security of our society.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579, 645 (1952) (Jackson, J., concurring). That fundamental principle applies here. As Admiral William Lescher, Vice Chief of Naval Operations, explained: “Sending ships into combat without maximizing the crew’s odds of success, such as would be the case with ship deficiencies in ordnance, radar, working weapons or the means to reliably accomplish the mission, is dereliction of duty. The same applies to ordering unvaccinated personnel into an environment in which they endanger their lives, the lives of others and compromise accomplishment of essential missions.” App. to Application for Partial Stay 110a.

KAVANAUGH, J., concurring

In sum, I see no basis in this case for employing the judicial power in a manner that military commanders believe would impair the military of the United States as it defends the American people.

ALITO, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 21A477

LLOYD J. AUSTIN, III, SECRETARY OF DEFENSE,
ET AL. *v.* U. S. NAVY SEALS 1–26, ET AL.

ON APPLICATION FOR A PARTIAL STAY

[March 25, 2022]

JUSTICE ALITO, with whom JUSTICE GORSUCH joins, dissenting.

By rubberstamping the Government’s request for what it calls a “partial stay,” the Court does a great injustice to the 35 respondents—Navy Seals and others in the Naval Special Warfare community—who have volunteered to undertake demanding and hazardous duties to defend our country. These individuals appear to have been treated shabbily by the Navy, and the Court brushes all that aside. I would not do so, and I therefore dissent.

I

In August 2021, the Secretary of the Navy made COVID–19 vaccination mandatory and threatened severe consequences, including dishonorable discharge and confinement, for anyone who refused.¹ Later Navy directives told service members that they could apply for religious exemptions, see Electronic Case Filing in *U. S. Navy Seals 1–26 v. Biden*, No. 4:21–cv–01236 (ND Tex., Jan. 3, 2022) (ECF), Doc. 44–1, p. 40 (Trident Order #12), but this program, as

¹ See Decl. of W. Lescher in No. 4:21–cv–01236 (ND Tex.), ECF Doc. 87, p. 10 (explaining that the Navy’s vaccination policy was that refusing to be vaccinated would constitute the refusal to obey “a lawful order under Article 92 of the Uniform Code of Military Justice,” which is punishable by dishonorable discharge and confinement for two years).

ALITO, J., dissenting

described by the District Court, was largely “theater” designed to result in the denial of almost all requests. *U. S. Navy Seals 1–26 v. Biden*, ___ F. Supp. 3d___ (ND Tex. 2022), App. to Application for Partial Stay 31a (App.).

The exemption procedure that the Navy set up included no fewer than *50 steps*, and during the first 35 steps, none of the various officials who processed requests gave any consideration to their merit. Decl. of A. Stephens, Exh. 1, ECF Doc. 62, at 10–26. Instead, a form letter rejecting each request was prepared and sent to seven offices for review. App. 40a.² A package of rejection letters was then assembled, together with a memo asking the vice admiral who served as a deputy chief of naval operations to sign the rejection letters. *Ibid.* Only at step 35 was someone in this chain told to read the exemption requests, but it appears that this individual was not given an opportunity to recommend that a request be granted. See ECF Doc. 62, at 7. Instead, this person’s sole task was to record pertinent information on a spreadsheet and send the package on to the vice admiral. *Id.*, at 7–8.

Given the nature of this procedure, the results it produced are not surprising. Although more than 4,000 exemption requests had been submitted by February 15, 2022, not a single one had been approved when the complaint in this case was filed. See Application for Partial Stay 9, and n. 3 (Application) (citing ECF Doc. 129, at 16, n. 2 (Feb. 23, 2022)).

Respondents are among the many recipients of form rejection letters, and according to their declarations and testimony, some of them were told outright that pressing for a

²Both the District Court and the Court of Appeals concluded based on the record that the Navy did not have a template for approving an exemption. See *U. S. Navy Seals v. Biden*, 27 F. 4th 336, ___ (CA5 2022) (*per curiam*), App. 6a; *id.*, at 40a. In the Reply filed in this Court, the Solicitor General claims that there was an approval template, Reply Brief 12, n. 6, but no such document been supplied to this Court.

ALITO, J., dissenting

religious exemption would end their naval careers. A respondent identified as Navy Seal 2 stated that a superior officer advised him that “all religious accommodation requests will be denied” because “senior leadership . . . has no patience or tolerance for service members who refuse COVID–19 vaccination for religious reasons and want them out of the SEAL community.” *U. S. Navy Seals v. Biden*, 27 F. 4th 336, ____ (CA5 2022) (*per curiam*), App. 9a. This officer allegedly added that “even if a legal challenge is somehow successful, the senior leadership of Naval Special Warfare will remove [his] special warfare designation.” *Ibid.* According to Navy Seal 5, he was told that “there [would] be a blanket denial of all religious accommodation requests regarding COVID–19 vaccination.” *Ibid.* Navy Seal 8 declared that his “chain of command . . . made it clear that [his] request [would] not be approved and . . . provided [him] with information on how to prepare for separation from the U. S. Navy.” *Ibid.* Navy Seal 11 stated that a command master chief told him that “anyone not receiving the COVID–19 vaccine is an “acceptable loss” to the Naval Special Warfare (NSW) community.” *Ibid.*

Forced to choose between violating their religious beliefs and the punishment that the Navy threatened, respondents brought this suit, claiming that the Navy’s denial of their exemption requests violated the Free Exercise Clause of the First Amendment and the Religious Freedom Restoration Act of 1993 (RFRA), 107 Stat. 1488, 42 U. S. C. §2000bb *et seq.* See Complaint in ECF Doc. 1. The District Court found that these claims were likely to succeed, and it issued a preliminary injunction prohibiting the Navy from taking adverse actions against respondents due to their unvaccinated status. App. 56a. But the court made clear that its order did not require the Navy “to make any particular personnel assignments” and left “[a]ll strategic decisions . . . in the hands of the Navy.” *Id.*, at 60a.

The Government appealed and asked the U. S. Court of

ALITO, J., dissenting

Appeals for the Fifth Circuit to stay the preliminary injunction, but the Fifth Circuit refused and issued a detailed opinion. 27 F. 4th 336.

The Government then applied to this Court for what it characterizes as a “partial stay,” and the Court now issues a stay that uses precisely the language that the Government proposed. As I will explain, the Court’s order essentially gives the Navy *carte blanche* to warehouse respondents for the duration of the appellate process, which may take years. There is no justification for this unexplained and potentially career-ending disposition.

II

In order to obtain a stay, the Government must show, among other things, that it is likely to succeed in defeating respondents’ RFRA and free exercise claims, *Hilton v. Braunskill*, 481 U. S. 770, 776 (1987), and it cannot make that showing.

A

Under the clear terms of RFRA, all components of the Federal Government are forbidden to burden a person’s exercise of religion unless the Government can demonstrate that the burden represents the least restrictive means of furthering a compelling interest. 42 U. S. C. §2000bb–1(b); *Holt v. Hobbs*, 574 U. S. 352, 357 (2015). The Government does not claim that Article II imperatives absolve the Navy’s chain of command from complying with RFRA, and it concedes that the statute applies to the military. Application 28 (citing *Burwell v. Hobby Lobby Stores, Inc.*, 573 U. S. 682, 726–727 (2014)). Indeed, even the form disapproval letter for religious accommodation requests in the District Court record explains that RFRA applies to the Navy, and it is the Navy’s position that “only those interests of the highest order can overbalance legitimate claims to the free exercise of religion.” ECF Doc. 62, at 27–28.

ALITO, J., dissenting

Here, it is not disputed that compliance with the vaccination requirement would impose a substantial burden on respondents' free exercise of religion. Therefore, the two remaining questions are (1) whether the Navy's mandatory vaccination program furthers compelling interests and (2) whether the denial of respondents' exemptions represents the least restrictive means of furthering such interests.

As to the first question, I agree that the Navy has a compelling interest in preventing COVID-19 infection from impairing its ability to carry out its vital responsibilities, as well as a compelling interest in minimizing any serious health risk to Navy personnel. But the Navy's summary rejection of respondents' requests for religious exemptions was by no means the least restrictive means of furthering those interests. This is so for at least two reasons.

First, all the evidence available at this stage suggests that the Navy gave no real consideration to respondents' requests, and the Navy had no compelling need to proceed in that fashion. I cannot believe that this Court would tolerate such treatment in other contexts. Suppose, for example, that a federal agency processed employee complaints about discrimination on the basis of race, sex, or disability using a 50-step process in which rejection was presumed until the very last step, and suppose that the record showed that this procedure nearly always resulted in the denial of a claim. We would be outraged—and rightfully so. Why, then, is the Court willing to brush aside what appears to have occurred here?

Second, even if we ignore what the Navy did and accept the justification for the denials that Justice Department lawyers later provided in court, the relief that the Court now awards goes well beyond anything that can possibly be regarded as the least restrictive means of further compelling Navy interests. Focusing primarily on the Seals, the Government stresses certain characteristics of Seal missions, including small unit size, the frequent need to work

ALITO, J., dissenting

at very close quarters, and the remote and often inaccessible locations in which such missions are carried out. Due to those characteristics, the Government argues, there is a heightened danger that the COVID–19 virus will spread, as well as a special need to minimize the risk that a mission will be compromised by a sick team member who is unable to perform assigned tasks with maximum effectiveness.

In order to win at trial, it would not be enough for the Government to posit that sending an unvaccinated Seal on such a mission *might* produce such consequences. A court could not simply defer to the Navy’s opinion, and mere “conjecture” or “speculation” would not be enough. See *Ramirez v. Collier*, 595 U. S. ___, ___–___ (2022) (slip op., at 13–15); *Fulton v. Philadelphia*, 593 U. S. ___, ___ (2021) (slip op., at 14). The Government would bear the burden of showing that mandatory vaccination is the least restrictive means of furthering the interest it asserts in light of the present nature of the pandemic, what is known about the spread of the virus and the effectiveness of the vaccines, prevalent practices, and the physical characteristics of Navy Seals and others in the Special Warfare community.

Whether the Government will be able to make the requisite showing remains to be seen, but for the purposes of considering interim relief that is sought in an emergency application, I am willing to accept the Navy’s need to refrain from sending unvaccinated Seals on the types of missions the Government has described. But participating in such missions is not the only thing that respondents do, and the relief that the Government sought and that the Court now awards goes much further. Using the terminology selected by the Government, the Court stays the preliminary injunction with respect to decisions about “deployment,” “assignment,” and “other operational decisions.”

The Government has not told us what these terms mean, but without any contrary guidance, we must assume that they will be interpreted in accordance with the definitions

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in the Department of Defense Dictionary of Military and Associated Terms (DOD Dictionary).³ And as defined in that dictionary, the terms seemingly allow the Navy to do just about anything it wants short of punishing respondents and drumming them out of the service.

“Deployment” is defined as “[t]he movement of forces into and out of an operational area,”⁴ and an “operational area” seems to mean any “geographic are[a]” where the Navy might carry out “a strategic, operational, tactical, service, training, or administrative military mission.”⁵ Thus, sending a respondent somewhere for training or administrative purposes may constitute a deployment.

The term “assignment” appears to include detailing an individual to perform any duties on something more than a temporary basis.⁶ And an “operational decision” apparently can include the carrying out of any “strategic, operational, tactical, service, training, or administrative military mission.”⁷

Putting all this together, it appears that the Court’s order allows the Navy to use respondents’ unvaccinated status as a reason for directing them to perform whatever duties or functions the Navy wants, including sitting alone in a room

³See DOD Dictionary (Nov. 2021), <https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/dictionary.pdf>.

⁴*Id.*, at 62.

⁵*Id.*, at 159.

⁶The DOD Dictionary does not define “assignment,” but the term “assign” is given this complex definition:

“1. To place units or personnel in an organization where such placement is relatively permanent, and/or where such organization controls and administers the units or personnel for the primary function, or greater portion of the functions, of the unit or personnel. 2. To detail individuals to specific duties or functions where such duties or functions are primary and/or relatively permanent.” *Id.*, at 20.

⁷The specific term “operational decision” is not defined, but the definition of “operation” includes “the carrying out of a strategic, operational, tactical, service, training, or administrative military mission.” *Id.*, at 159.

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pushing paper or reading manuals for the duration of the appellate process. It is squarely within the judicial power of Article III to assess whether the Government has shown that it has a compelling interest in obtaining this breadth of equitable relief pending appeal. The Government has not done so.

I would not rubberstamp the Government’s proposed language. While I am not sure that the Navy is entitled to any relief at this stage, I am also wary, as was the District Court, about judicial interference with sensitive military decision making. Granting a substantial measure of deference to the Navy, I would limit the order to the selection of the Special Warfare service members who are sent on missions where there is a special need to minimize the risk that the illness of a member due to COVID–19 might jeopardize the success of the mission or the safety of the team members. This, I believe, was the aim of the District Court, and respondents themselves understand the preliminary injunction that way. See Response in Opposition 1 (stating that the injunction “does not require the Navy to deploy any of the thirty-five plaintiffs” (footnote omitted)).

B

Respondents are also likely to prevail on their claims under the Free Exercise Clause. Under our case law, if the Federal Government or a State treats conduct engaged in for religious reasons less favorably than similar conduct engaged in for secular reasons, that treatment is unconstitutional unless the relevant jurisdiction can satisfy “strict scrutiny,” which is essentially the same as the standard imposed by RFRA. See *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U. S. 872, 878–879 (1990); *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U. S. 520, 533 (1993).

That “[o]ur review of military regulations challenged on First Amendment grounds” is deferential does not “render

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entirely nugatory in the military context the guarantees of the First Amendment.” *Goldman v. Weinberger*, 475 U. S. 503, 507 (1986). “This Court has never held . . . that military personnel are barred from all redress in civilian courts for constitutional wrongs suffered in the course of military service.” *Chappell v. Wallace*, 462 U. S. 296, 304 (1983).

Here, the Navy treated service members who applied for medical exemptions more favorably than those who sought religious exemptions. For one thing, requests for medical exemptions were seriously considered, and quite a few were granted, at least on a temporary basis. Application 7–8; 27 F. 4th, at ___, App. 20a (“[T]he Navy acknowledges that it has granted hundreds of medical exemptions from the COVID–19 vaccine, at least 17 of which were temporary medical exemptions for those in Naval Special Warfare”). In addition, service personnel with medical exemptions are not restricted as severely as respondents will be under the Court’s order. App. 42a. Indeed, the District Court found that under Navy policy those participating in clinical trials and those with medical contraindications and allergies to vaccines remained deployable, unlike those seeking religious accommodations. *Id.*, at 50a (citing ECF Doc. 17–2, at 66). The Navy has no interest in different treatment for accommodation requests that produce otherwise identical outcomes. I would therefore specify in the Court’s order that the Navy must provide equal treatment for all unvaccinated service members.

III

Today, the Court brushes aside respondents’ First Amendment and RFRA rights. But yesterday, the Court handed down another decision that illustrates the strong protection for religious liberty that is provided by the framework that applies under RFRA and strict scrutiny. The decision in question, *Ramirez v. Collier*, involved a convicted murderer awaiting execution and his rights under

ALITO, J., dissenting

the Religious Land Use and Institutionalized Persons Act of 2000, 14 Stat. 803, 42 U. S. C. §2000cc *et seq.*, which, among other things, essentially requires prisons to comply with the RFRA standard. Ramirez argued that his exercise of religion will be burdened unless Texas allows his pastor to lay hands on him and pray aloud while he is being executed. Ramirez was less than punctilious and consistent in requesting a religious accommodation, see *Ramirez*, 595 U. S., at ___–___ (slip op., at 4–5); *id.*, at ___ (THOMAS, J., dissenting) (slip op., at 8), but the Court’s decision forgave all that. Texas objected to Ramirez’s request on the ground that the pastor’s conduct might interfere with the execution, but the Court held that the State failed to discharge its burden to substantiate the likelihood of such harm. *Id.*, at ___ (slip op., at 12).

The contrast between our decision in *Ramirez* yesterday and the Court’s treatment of respondents today is striking. We properly went to some lengths to protect Ramirez’s rights because that is what the law demands. We should do no less for respondents.



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser N1/116417
2 Dec 21

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)
To: AWS1 Aaron W. Crabb, USN
Via: Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS

Ref: (a) 42 U.S.C. §2000bb-1
(b) DoD Instruction 1300.17 of 1 September 2020
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) MILPERSMAN 1730-020
(f) United States Attorney General memo of 6 Oct 17
(g) Your ltr of 7 Sep 21 w/ends
(h) BUMED ltr 6320 Ser M44/21UM42751 of 22 Nov 21

1. Pursuant to references (a) through (h), your request for religious accommodation through waiver of immunization requirements is disapproved. You must receive all required vaccines. However, you are free to request from your healthcare provider alternative vaccines that are available and meet the Navy's immunization requirements, as determined by a credentialed military healthcare provider. You are free to choose which COVID-19 vaccine to take. If you choose a COVID-19 vaccine that requires two doses, you must receive your first dose within five calendar (5) days upon receipt of this letter and complete the series as prescribed. If you choose a one-dose vaccine you must receive the vaccine within five calendar (5) days upon receipt of this letter.

2. In line with references (b) through (d), I am designated as the approval authority for requests for religious accommodation.

3. Reference (a), the Religious Freedom Restoration Act (RFRA), states that the Government may substantially burden an individual's exercise of religion only if it demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Reference (b) incorporates the RFRA and notes that the Government has a compelling interest in mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels. Additionally, unless it will have an adverse impact on mission accomplishment, including military readiness, unit cohesion and good order and discipline, the Navy will accommodate individual expressions of sincerely held beliefs of Sailors. Reference (f) emphasizes that only those interests of the highest order can overbalance legitimate claims to the free exercise of religion.

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS

4. All requests for accommodation of religious practices are assessed on a case-by-case basis. In line with references (b) and (c), determination of a request for religious accommodation requires consideration of the following factors:

- a. Impact on military readiness, unit cohesion, good order and discipline, health and safety
- b. Religious importance of the request
- c. Cumulative impact of repeatedly granting similar requests
- d. Whether there are alternatives available to meet the requested accommodation and
- e. How other such requests have been treated

5. In making this decision, I reviewed reference (g), including the endorsements from your chain of command, the local chaplain and the advice of Chief, Bureau of Medicine and Surgery in reference (h).

a. A waiver of immunizations would have a predictable and detrimental effect on your readiness and the readiness of the Sailors who serve alongside you in both operational and non-operational (including training) environments. Primary prevention of disease through immunizations has been a key enabler for maintaining force health and avoiding disease-related non-battle injury. Granting your request will have a direct and foreseeable negative impact on the compelling Government interests of military readiness and health of the force.

b. While serving in the U.S. Navy, you will inevitably be expected to live and work in close proximity with your shipmates. I find that disapproval of your request for a waiver of immunization requirements is the least restrictive means available to preserve the Department of Defense's compelling interest in military readiness, mission accomplishment and the health and safety of military Service Members.

6. The Navy is a specialized community governed by a discipline separate from that of the rest of society. While every Sailor is welcome to express a religion of choice or none at all, our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.

(b) (6)

JOHN B. NOWELL, JR

Copy to:
OPNAV (N131, N0975)
BUMED
CVW-2



DEPARTMENT OF THE NAVY

CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
N00

9 August 2022

From: Chief of Naval Operations
To: AWS1 Aaron W. Crabb, USN
Via: (1) Commander, Carrier Air Wing TWO
(2) Commanding Officer, Helicopter Sea Combat Squadron FOUR
Subj: APPEAL OF RELIGIOUS ACCOMMODATION FOR IMMUNIZATION
REQUIREMENT ICO AWS1 AARON W. CRABB, USN
Ref: (a) DCNO (N1) ltr 1730 Ser N1/116417 of 2 Dec 21
(b) DoD Instruction 1300.17 of 1 Sep 20
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) BUPERSINST 1730.11A
(f) BUMED ltr 6320 Ser M44/21UM42751 of 22 Nov 21
(g) BUMED ltr 6320 Ser M44/22UM401 of 15 Jun 22
(h) NAVADMIN 190/21
(i) NAVADMIN 102/22
(j) NAVADMIN 225/21
(k) NAVADMIN 256/21
(l) *Austin v. U.S. Navy SEALs* 1–26, 212 L. Ed. 2d 348 (2022)

1. Your appeal of reference (a) is disapproved. I am disapproving your appeal due to the Navy's compelling governmental interest in preventing spread of diseases to support mission accomplishment, including military readiness, unit cohesion, good order and discipline, and health and safety, at the individual, unit, and organizational levels. A waiver of immunizations would have a predictable and detrimental effect on the readiness of you and the Sailors who serve alongside you. Granting your request will have a direct and foreseeable negative impact on the compelling governmental interest in military readiness and health of the force. I further find that there are no less restrictive means to achieve the Navy's compelling governmental interest

2. References (b) through (e) designate me as the final appeal authority for requests for religious accommodation.

3. I considered your original request, your appeal, and the endorsements on your correspondence, including your commanding officer's disapproval recommendation citing mission accomplishment concerns. In reviewing your appeal, I evaluated the request under the assumption that your religious beliefs are sincere and would be substantially burdened. I weighed your role as a helicopter aircrewman and your responsibilities at Helicopter Sea Combat Squadron FOUR, where you interact face-to-face with other flight crew, passengers, and tactical teams. By remaining unvaccinated, you pose an ongoing health and safety risk to yourself and fellow sailors. As explained in reference (f), while no vaccine is 100 percent effective, vaccines

Subj: APPEAL OF RELIGIOUS ACCOMMODATION FOR IMMUNIZATION
REQUIREMENT ICO AWS1 AARON W. CRABB, USN

with lower effectiveness still reduce disease incidence in the population, reduce an individual's risk of contracting the disease, and generally reduce the severity of disease for those who do contract the illness. In addition, the continuing ability of coronavirus disease 2019 (COVID-19) to cause sickness, hospitalization, and death, even as it trends towards endemic status, highlights the importance of vaccination for both individual and unit force health protection.

4. Vaccination of Navy personnel can impact both individual and unit mission accomplishment. It reduces the risk to the individual for disease-related performance impairment, and it reduces the risk to the unit for disease outbreaks of contagious diseases such as COVID-19. While non-pharmaceutical measures such as personal hygiene, mask wearing, and social distancing can also reduce the risk of disease outbreaks, they too are not 100 percent effective and must be implemented in conjunction with immunization to reduce the risk of mission failure. As explained in reference (f), these measures are not as effective as vaccination in maintaining military readiness and the health of the force. Testing is not a substitute for vaccination, because testing cannot prevent or reduce the severity of disease, and does not reduce the risk of spread to others as significantly as vaccination.

5. I am thankful that you recovered from your prior COVID-19 infection. I considered whether your prior infection with COVID-19 adequately meets the Navy's interests in health, safety, and readiness. However, reference (g) concludes that prior infection is not a reliable source of immunity in an individual person. Additionally, currently-authorized SARS-CoV-2 antibody tests are not validated to evaluate individual immunity or protection from COVID-19 infection. This is in contrast to FDA-approved COVID-19 vaccines, which have been shown in randomized controlled clinical trials, which are the highest level of scientific evidence, to be safe and reliable at preventing hospitalization and death from COVID-19. Therefore, your prior infection is not a less restrictive means of accomplishing the Navy's compelling governmental interests.

6. Your appeal stated that you feel you are being religiously discriminated against by denial of your religious accommodation request. While I understand your frustration, review of your religious accommodation request by your chain of command, including me, is not religious discrimination. Nevertheless, religious discrimination is prohibited in the Navy. If you are experiencing religious discrimination in other contexts, I encourage you to report it to your chain of command or an Equal Opportunity specialist

7. This letter only constitutes notice of my disapproval of your appeal with respect to reference (h). As outlined in reference (i), the Navy cannot currently enforce the administrative measures for COVID-19 vaccine refusal in references (j) and (k). The Navy may consider your vaccination status in deployment, assignment, and other operational decisions in accordance with reference (l). Any changes to the Navy's COVID-19 vaccine enforcement policies will be announced.

Subj: APPEAL OF RELIGIOUS ACCOMMODATION FOR IMMUNIZATION
REQUIREMENT ICO AWS1 AARON W. CRABB, USN

8. The Navy welcomes people of all faiths and no faith to join our ranks in patriotic service. Our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.

(b) (6)
M. M. GILDAY

Copy to:
ASN (M&RA)
OPNAV (N131)
BUMED



DEPARTMENT OF THE NAVY
COMMANDER CARRIER AIR WING TWO
30 SKYTRAIN AVE UNIT TWO
LEMOORE CA 93246-6005

1730
Ser N00/1 85
12 Sep 21

FIRST ENDORSEMENT on CO, HSC-4 ltr 1000 Ser 00/184 of 10 Sep 21

From: Commander, Carrier Air Wing TWO
To: Chief of Naval Personnel

Subj: DISAPPROVAL RECOMMENDATION ICO AWS1 AARON CRABB
RELIGIOUS ACCOMMODATION

1. I have reviewed the subject request submitted to me on 11 September 2021. I concur with HSC-4's endorsement and recommend disapproval of AWS1 Crabb's request.
2. The Commanding Officer's endorsement and justification meet all requirements of governing instructions. As the Commanding Officer states, enforcing Department of Defense policy on mandatory COVID-19 vaccination is critical to reducing community transmission of COVID-19 while maintaining mission assurance.

(b) (6)

T. E. LOCKE

Copy to:
HSC-4
CSG-1



DEPARTMENT OF THE NAVY
HELICOPTER SEA COMBAT SQUADRON FOUR
PO BOX 357101
SAN DIEGO CA 92135-7101

1000
Ser 00/184
10 Sep 21

From: Commanding Officer, Helicopter Sea Combat Squadron FOUR
To: Chief of Naval Personnel
Via: Commander, Carrier Air Wing TWO

Subj: DISAPPROVAL RECOMMENDATION ICO AWS1 AARON CRABB RELIGIOUS
ACCOMODATION

Ref: (a) DoD Instruction 1300.17
(b) SECNAVINST 1730.8
(c) BUPERSINST 1730.11
(d) BUMEDINST 6230.15B
(e) MILPERSMAN 1730-020
(f) Secretary of Defense Memo of 24 Aug 2021, "Mandatory Coronavirus Disease
Vaccination of Department of Defense Service Members
(g) NAVADMIN 110/21
(h) COMPAFLT GENADMIN OF CONSOLIDATED CPF COVID-19 GUIDANCE 4.2

Encl: (1) AWS1 Crabb request of 7 September 21
(2) AWS1 Crabb 1070/613 of 7 September 2021
(3) Military chaplain endorsement dtd 6 September 2021
(4) Healthcare provider counseling dtd 3 September 2021

1. Per reference (a) through (i), I am forwarding this request recommending disapproval in full.
2. The following information was considered or is provided for consideration as applicable.

a. Secretary of Defense guidance, reference (f), and Chief of Naval Operations guidance, reference (h), require Petty Officer Crabb to receive a COVID-19 vaccine. Further, Commander, U.S. Pacific Fleet guidance in reference (i) prescribes necessary measures to preserve mission assurance and force health protection. An exception to policy would have a negative impact on safety in my unit given community transmission levels associated with the Delta Variant of COVID-19.

b. The importance of the applicable military policies highlights the risks to mission readiness and health of the force associated with having a non-immunized force. Accordingly, I recommend disapproval of Petty Officer Crabb's request in order to both minimize the risk of community transmission of COVID-19 and ensure Petty Officer Crabb's wellbeing so that my squadron can maintain its ability to execute all assigned tasking.

c. Denial of Petty Officer Crabb's request furthers compelling government interests — health of the force, military readiness, and mission assurance. There is no less restrictive means of accommodating Petty Officer Crabb's request due to his request to be exempted from all three currently available COVID-19 vaccines.

d. There are (0) service members in my squadron who have been granted a similar exemption.

3. A military chaplain endorsement of Petty Officer Crabb's request is attached as enclosure (3). I believe Petty Officer Crabb is sincere in his personal beliefs. Petty Officer Crabb received required counseling from a healthcare provider, attached as enclosure (4).

4. My point of contact (POC) for this matter is CDR (b) (6) who can be reached at (b) (6) @cvw2.navy.mil.

5. This recommendation was submitted to me on 8 September 2021 and will be emailed to OPNAV N131 for review/decision, via Commander Carrier Air Wing TWO.


T. J. MURRAY

Copy to:
AWS1 Crabb

07 SEP 21

From: AWS1, Crabb Aaron, W., USN, Helicopter Sea Combat Squadron FOUR
To: Deputy Chief of Naval Operations, CNO N1
Via: Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: REQUEST FOR RELIGIOUS VACCINE ACCOMODATION IN SUPPORT OF
SINCERE RELIGIOUS BELIEFS

Ref: (a) DoD Instruction 1300.17 of 1 September 2021
(b) SECNAVINST 1730.9
(c) BUPERINST 1730.11A
(d) BUPERINST 6230.15B
(e) MILPERSMAN 1730-020
(f) MANMED CHANGE 141 Manual of the Medical Dept USN NAVMED P-117

1. Pursuant to references (a) through (f), I hereby request religious accommodation from Navy policy reference (d) to be exempted from the Covid-19 shot because all manufacturers use aborted fetal cells. Receiving an injection or medical treatment that uses aborted fetal cell lines in the actual injection or as part of their development or testing, no matter how remote in time that abortion occurred, directly violates my sincerely held belief that all life is sacred.

2. As a Christian, I believe that life begins at conception. The Lord makes this very clear in Jeremiah 1:4-5, that God knows us before we are conceived. He even speaks in Psalm 139:13-16 of the role that He plays in our forming and of knowing us before we are even born. (For thou hast possessed my reins: thou hast covered me in my mother's womb. I will praise thee; for I am fearfully and wonderfully made: marvelous are thy works; and that my soul knoweth right well. My substance was not hid from thee, when I was made in secret, and curiously wrought in the lowest part of the earth. Thine eyes did see my substance, yet being unperfect; and in thy book all my members were written, which in continuance were fashioned, when as yet there was none of them.) Because an unborn baby is human, the killing of this baby constitutes murder by the Ten Commandments. (Exodus 20:13 Thou shalt not kill.)

I believe that it is my duty as a Christian to not violate God's law and to remain blameless in His sight. (I Thessalonians 5:23 And the very God of peace sanctify you wholly; and I pray God your whole spirit and soul and body be preserved blameless unto the coming of our Lord Jesus Christ.) My body is the temple of the Holy Spirit and it is not my own. (I Corinthians 6:19-20 What? Know ye not that your body is the temple of the Holy Ghost which is in you, which ye have of God, and ye are not your own? For ye are bought with a price: therefore glorify God in your body, and in your spirit, which are God's.) I cannot do this thing, that I sincerely believe is wrong and remain blameless before God. (James 4:17 Therefore to him that knoweth to do good, and doeth it not, to him it is sin.) I am wholly committed to following Jesus and his Scriptures in all aspects of my life. (Deuteronomy 10:1 Therefore thou shalt love the Lord thy God, and keep his charge, and his statutes, and his judgments, and his commandments, always.) I cannot be a part of something that the Lord hates.

Enclosure (1)

The Lord calls the shedding of innocent blood an abomination (Proverbs 6:16-17 These six things doth the Lord hate: yea, seven are an abomination to him: ...hands that shed innocent blood...) Therefore, by taking the Covid 19 shot, I have part in the taking of a life and this is in direct violation to my sincerely held religious beliefs.

3. I certify that understand I understand that any approved or partially approved waiver may not be appropriate for future duty to which I may be assigned, including operational, non-Operational or training command(s), and may be suspended or withdrawn in accordance with reference (c).

(b) (6)

A.W. Crabb

Enclosure (1)

ADMINISTRATIVE REMARKS

NAVPERS 1070/613 (REV. 08-2012) PREVIOUS EDITIONS ARE OBSOLETE

SUPPORTING DIRECTIVE MILPERSMAN 1070-320

SHIP OR STATION:

HSC-4

SUBJECT:

Religious Accommodation

☒ PERMANENT☐ TEMPORARY

AUTHORITY (IF PERMANENT):

I request a waiver from all vaccinations, including the Covid-19 shot immunization. I hereby state that my request is based upon the receiving of an injection or medical treatment that uses aborted fetal cell lines in the actual injection or as part of their development or testing, no matter how remote in time that abortion occurred, directly violates this sincerely held belief. I acknowledge having received the following counseling:

1. Failure to obtain immunization poses additional risk to my health upon exposure to disease.
2. In the event of foreign travel, I may be detained during travel across foreign borders due to international health regulations.
3. If granted, a waiver may be revoked by my commanding officer if I am at imminent risk of disease or due to international health regulations.
4. If my job duties change, I may need to route a new request.
5. If I PCS while my waiver is in effect, I may need to route a new request if my job duties change, my geographic region exposes me to the aforementioned disease, or other factors exist that could put me at imminent risk of disease.

(b) (6)

Witnessed

(b) (6)

Service Member's Signature

ENTERED AND VERIFIED IN ELECTRONIC SERVICE RECORD:

VERIFYING OFFICIAL RANK OR GRADE/TITLE:

DATE:

SIGNATURE OF VERIFYING OFFICIAL:

NAME (LAST, FIRST, MIDDLE):

Crabb, Aaron, W

SOCIAL SECURITY NUMBER:

(b) (6)

BRANCH AND CLASS:

USN

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PRIVACY SENSITIVE

Enclosure (2)

ADMINISTRATIVE REMARKS

NAVPERS 1070/613 (REV. 08-2012) PREVIOUS EDITIONS ARE OBSOLETE

SUPPORTING DIRECTIVE MILPERSMAN 1070-320

SHIP OR STATION:

Carrier Strike Group ONE

SUBJECT:

COVID-19 Vaccination Administrative Counseling/Warning

☒ PERMANENT☐ TEMPORARY

AUTHORITY (IF PERMANENT):

BUMEDINST 6230.15B, ALNAV 062/21, and NAVADMIN 190/21

1. On 31 August 2021, all U.S. service members were mandated to be vaccinated against COVID-19. Your current medical records indicate that you have not been vaccinated against COVID-19 using an FDA-approved vaccine.

2. The following information is provided for your consideration:

- a. Your health and safety are the Navy's number one concern.
- b. The COVID-19 vaccines are safe and effective.
- c. The threat from COVID-19 is deadly and real.
- d. Vaccination offers a layer of protection in addition to other measures.
- e. Healthcare providers are available to discuss your objections/concerns with the COVID-19 vaccines.
- f. DoD will administer COVID-19 vaccinations consistent with FDA approved dosing schedules and current standards of medical practice.
- g. Administration of the COVID-19 vaccine is in the interest of national security and protection of the force. Receiving the vaccine helps protect your family and dependents as well as fellow Sailors and Marines and associated DoD civilians.
- h. Unless medically or administratively exempt, any refusal to be vaccinated may constitute a Failure to Obey a Lawful Order and may be punishable under the Uniform Code of Military Justice (UCMJ) and/or administrative action for Failure to Obey a Lawful Order (UCMJ, Article 92).

3. The following corrective action is required:

[Within XX days] of this administrative counseling, you will complete receipt of the COVID-19 vaccination using an FDA approved vaccine. Of note, the Pfizer vaccine is a two-shot series and requires a 21-day delay between doses. Proof of vaccination is required and must be entered into your medical record.

4. Member must initial all that apply below:

AL I acknowledge the above counseling/warning and understand its contents.

AL I have been informed of my right to submit a statement in response to this counseling/warning (initial one below).

AL I intend to submit a statement. I will submit my statement within 10 days of this date.

AL I do not intend to submit a statement.

AL I intend to seek an exemption as indicated in para. 2h above. My exemption request will be submitted within 10 days of this date.

(b) (6)

Member's Signature Date/Signed

Commanding Officer

(b) (6)

Witness' Signature Date/Signed

ENTERED AND VERIFIED IN ELECTRONIC SERVICE RECORD:

VERIFYING OFFICIAL RANK OR GRADE/TITLE:

DATE:

SIGNATURE OF VERIFYING OFFICIAL:

NAME (LAST, FIRST, MIDDLE):

CRABB, Aaron, W

SOCIAL SECURITY NUMBER:

(b) (6)

BRANCH AND CLASS:

USN

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06 SEP 21

CHAPLAIN MEMORANDUM FOR THE RECORD

From: LCDR William E. Newsome, CHC, USN, Command Chaplain, Carrier Air Wing TWO
To: CDR Thomas Murray, USN, Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: REQUEST FOR INTERVIEW OF RELIGIOUS SINCERITY REGARDING
DECLINATION OF COVID-19 VACCINE – AWS1 CRABB, AARON

Ref: (a) SECNAVINST 1730.8B change 1
(b) SECNAVINST 1730.9A
(c) BUPERSINT 1730.11A

1. AWS1 Crabb, Aaron has submitted a request for accommodation of a religious practice per reference (a). Per BUPERSINT 1730.11A, I interviewed the requestor on 3 SEPT 2021. I explained that this interview would not be a confidential communication as defined by reference (b) and informed the requestor that referral for confidential chaplain support was available via USS Carl Vinson (CVN 70) chaplains.

2. Nature of the request. Member is requesting a religious exemption from the COVID-19 vaccine.

3. Basis. Member is opposed to receiving all vaccines for Covid-19 to include Pfizer, Moderna and Johnson and Johnson vaccines based on their use of tissues derived from aborted fetuses. Additionally, he is opposed to any Military mandated vaccine based on his biblical interpretation of the sacred nature of his body.

4. Sincerity. Member is active in Word of Life Community Church in San Diego, CA. He experienced a spiritual understanding six years ago that has made him take his spiritual walk more seriously with his family. He has not previously opposed vaccines but upon reading how the COVID-19 vaccines were deployed, he does not want to receive the COVID-19 vaccine based on his religious beliefs.

5. My contact information is J-Dial 5255 and (b) (6) @CVW2.navy.mil.

(b) (6)

W. E. NEWSOME

Copy to:
CAPT Tommy Locke
AWS1 Aaron Crabb

Enclosure (3)

16 Mar 2020

CHAPLAIN INTERVIEW CHECKLIST TEMPLATE

Requestor: <i>Amron Linnb</i>			Interview Date: <i>9.3.21</i>		
Name:			Chaplain Interviewer: <i>Newman</i>		
Phone: <i>J-Dial 2590</i>			Phone: <i>555</i>		
Email: <i>(b) (6) @ CVW2 navy.mil</i>			E-mail: <i>(b) (6) @ CVW2 navy.mil</i>		
Command: <i>HSC-4</i>			Chaplain's Command: <i>CVW2</i>		
Interview Preliminaries					
Yes	No	N/A			
<input checked="" type="checkbox"/>			Chaplain reviewed policy and doctrine on religious accommodation and the policy for which the requestor is seeking accommodation.		
<input checked="" type="checkbox"/>			Applicant was notified that the interview is not confidential and will be used to advise the command.		
<input checked="" type="checkbox"/>			Chaplain explained to the applicant that confidential support can be received from another chaplain.		
	<input checked="" type="checkbox"/>		Applicant has been granted a waiver for this practice previously.		
		<input checked="" type="checkbox"/>	Applicant's Page 2 (NAVPERS 1070/602) reflects the belief cited in the application.		
Type of Waiver Requested					
Yes	No	N/A			
	<input checked="" type="checkbox"/>		Uniform standards		
	<input checked="" type="checkbox"/>		Grooming standards		
<input checked="" type="checkbox"/>			Immunization requirements		
	<input checked="" type="checkbox"/>		DNA sampling		
		<input checked="" type="checkbox"/>	Other (Please describe):		
Interview					
Yes	No	N/A			
		<input checked="" type="checkbox"/>	Requestor's religious beliefs seemed honestly and sincerely held using one or more of the following factors:		
<input checked="" type="checkbox"/>			1. Requestor was credible (consistently keeps tenets, practices, etc.).		
<input checked="" type="checkbox"/>			2. Requestor's demeanor and pattern of conduct are consistent with the request.		
<input checked="" type="checkbox"/>			3. Requestor participates in activities associated with the belief(s).		
		<input checked="" type="checkbox"/>	4. Other persons supporting the claim are credible.		
		<input checked="" type="checkbox"/>	5. Request is supported by letter(s) of verification or endorsement from an organization espousing the beliefs which are the basis for the claim.		
		<input checked="" type="checkbox"/>	Alternate means of accommodating the practice were explored in the interview.		
Process Checklist					
Yes	No	N/A			
<input checked="" type="checkbox"/>			Chaplain has prepared a memorandum documenting the interview.		
<input checked="" type="checkbox"/>			Chaplain reviewed memorandum with applicant and provided a copy.		
<input checked="" type="checkbox"/>			Chaplain submitted the memorandum and this document to the commanding officer via chain of command.		
<input checked="" type="checkbox"/>			Chaplain referred applicant to command to process request.		

Enclosure (3)

DATE: 03Sep2021

Subj: MEMORANDUM FOR ADMINISTRATIVE RELIGIOUS ACCOMODATION
REFERENCES

Ref: (a) BUMEDINST 6230.15B - Immunizations and Chemoprophylaxis of Infectious
Disease
(b) MANMED Change 141 - Manual of the Medical Department

"2.6.b.3.a.2. - A military physician must physician must counsel the applicant. The physician must ensure that the Service member is making an informed decision and should address, at a minimum specific information about the diseases concerned; specific vaccine information including product constituents, benefits, and risks; and potential risks of infection incurred by unimmunized individuals."

I, (b) (6), MD, MPH, certify that I have counseled CRABB, AARON W on:

-Specific information about the diseases concerned (All vaccinations, regardless of status as required or optional as directed by BUMEDINST 6230.15B).

-COVID-19 vaccine information including constituents, benefits, and risks

-Potential risks of infection incurred by unimmunized individuals and I verify that CRABB, AARON W is aware of the benefits and risks of vaccination, and that he is making an informed decision with regard to the COVID-19 vaccine.

AE (initial) CRABB, AARON W. This counseling does not guarantee that your religious accommodation waiver will be accepted or denied, but merely certifies your awareness of the above topics.

(b) (6)

MD
LT, MC(FS), USN
CVW-2 Flight Surgeon

03 Sep 2021

August 15, 2021

MEMORANDUM FOR RECORD

SUBJECT: Pastor Verification Letter for Aaron W. Crabb

To whom it may concern, I understand that Aaron W. Crabb has submitted a religious accommodation request from the COVID vaccine directive. As his pastor, I can speak to the sincerity of his faith and his request. Aaron W. Crabb told me that after the directive to accept the COVID vaccine came out, he started searching the Scriptures as to how he should respond, and if he should accept the shot.

Aaron W. Crabb is a Christian, and believes the Bible to be the inspired, inerrant, holy, living Word of God as God's word states in II Timothy 3:16. Our Lord teaches a sanctification of our body. God tells us that we are a new creature in Him in II Corinthians 5:17. As a new creature in the Lord our pledge to the Lord is to live in His image and be Christ like without blemish and without spot as we are commanded in Romans 8:29, I Corinthians 15:49, II Corinthians 3:18, Colossians 1:15, Colossians 3:10, and Hebrews 1:3. When Jesus Christ went back to heaven after He was resurrected, He promised to send his Holy Spirit, who would guide us into all truth as told in John 14:16 & 26, 15:26, and John 16:7. Our church teaches that each believer in Christ receives the Holy Spirit, who directly leads the individual in his walk with God, as the believers seeks wisdom through prayer and Scripture reading as the Lord teaches in John 5:39, Acts 17:11, Romans 15:4, Romans 16:26, and II Timothy 3:15. Our church teaches that believers should follow their conscience, as informed by the written word of God, and the leading of his Holy Spirit. Our church teaches the Biblical sanctity of human life, and the Biblical interdiction against abortion as the shedding of innocent blood. This is described in Proverbs 19:23. Christians understand this interdiction to include ingesting or benefiting from products derived from or using aborted fetal cell lines.

Aaron W. Crabb has told me that based on his review of Centers for Disease Control (CDC) guidance and position statements, and understanding of the issues, and much prayer that he might discern truth from error, and whether he should get the shot, the Holy Spirit is not allowing him to accept the COVID shot. He believes that if he were to do so, he would be sinning against our living God in defiling his body and not keeping his Godly temple pure. Our church supports him as he follows the leading of the Holy Spirit and supports his request for a religious accomodation.

Pastor, Carlo Benhan



LII > U.S. Code > Title 42. THE PUBLIC HEALTH AND WELFARE

> Chapter 21B. RELIGIOUS FREEDOM RESTORATION

> **Section 2000bb–1. Free exercise of religion protected**

42 U.S. Code § 2000bb–1. Free exercise of religion protected

U.S. Code Notes

(a) IN GENERAL

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) EXCEPTION Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) JUDICIAL RELIEF

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(Pub. L. 103-141, § 3, Nov. 16, 1993, 107 Stat. 1488.)

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DEPARTMENT OF THE NAVY
HELICOPTER SEA COMBAT SQUADRON FOUR
PO BOX 357101
SAN DIEGO CA 92135-7101

1000
Ser 00/282
18 Dec 21

From: Commanding Officer, Helicopter Sea Combat Squadron FOUR
To: Chief of Naval Operations
Via: Commander, Carrier Air Wing TWO

Subj: APPEAL OF DENIAL FOR WAIVER OF POLICY TO ACCOMMODATE RELIGIOUS PRACTICE

Ref: (a) DoD Instruction 1300.17
(b) SECNAVINST 1730.8
(c) BUPERSINST 1730.11
(d) BUMEDINST 6230.15B
(e) MILPERSMAN 1730-020
(f) Secretary of Defense Memo of 24 Aug 2021, "Mandatory Coronavirus Disease Vaccination of Department of Defense Service Members"
(g) NAVADMIN 110/21
(h) COMPAFLT GENADMIN OF CONSOLIDATED CPF COVID-19 GUIDANCE 4.2

Encl: (1) Member's Appeal
(2) HELSEACOMBATRONFOUR ltr 1000 Ser 00/184 of 10 Sep 21
(3) AWS1 Aaron Crabb 1070/613 of 7 Dec 21

1. Per references (a) through (h), I have reviewed the subject request submitted to me on 12 December 2021.

2. I recommend denial of Petty Officer Crabb's request for appeal to accommodate religious practice. Enclosure (1) contains my endorsement recommending denial of Petty Officer Crabb's initial request for religious accommodation. The service member has not offered any new information that substantively changes my view of his original request for religious accommodation.

3. I can be reached at (b) (6) @cvw2.navy.mil should you have any questions.

(b) (6)

T. J. MURRAY

Copy to:
AWS1 Crabb



DEPARTMENT OF THE NAVY
COMMANDER CARRIER AIR WING TWO
30 SKYTRAIN AVE UNIT TWO
LEMOORE CA 93246-6005

1000
Ser N00/311
23 Dec 21

FIRST ENDORSEMENT on CO, HSC-4 ltr 1000 Ser 00/282 of 18 Dec 21

From: Commander, Carrier Air Wing TWO
To: Chief of Naval Personnel

Subj: APPEAL OF DENIAL FOR WAIVER OF POLICY TO ACCOMMODATION
RELIGIOUS PRACTICE

1. I have reviewed the subject request submitted to me on 21 December 2021. I concur with HSC-4's endorsement and recommend disapproval of AWSI Crabb's request.
2. The Commanding Officer's endorsement and justification meet all requirements of governing instructions. As the Commanding Officer states, enforcing Department of Defense policy on mandatory COVID-19 vaccination is critical to reducing community transmission of COVID-19 while maintaining mission assurance.

(b) (6)

T. F. LOCKE

Copy to:
HSC-4
CSG-1
CHSCWP

12DEC21

From: AWS1, Crabb Aaron, W., USN, Helicopter Sea Combat Squadron FOUR
To: Chief of Naval Operations, CNO
Via: Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: APPEAL OF REQUEST FOR RELIGIOUS ACCOMMODATION IN SUPPORT OF
SINCERE RELIGIOUS BELIEFS

Ref: (a) DoD Instruction 1300.17 of 1 September 2020
(b) 42 U.S. Code § 2000bb-1
(c) BUPERINST 1730.11A
(d) BUPERINST 6230.15B
(e) MILPERSMAN 1730-020
(f) Frazee v Illinois Department of Employment Security 829
(g) OPNAVINST 5354.1G

Encl: (1) AWS1 CRABB RELIGIOUS ACCOMMODATION Determination through waiver
of immunization requirement
(2) Accomplishments Letter dtd 12DEC21
(3) Evaluation
(4) Freedom of Information Act to CDC reply dtd 5NOV21
(5) Memorandum for Record From Pastor dtd 15AUG21

1. I, AWS1 Aaron W. Crabb, am submitting an appeal to the decision Encl (1) received on 02DEC21 to the next higher authority IAW Ref. (a), and (c).

2. My unimmunized for SARS CoV-2 status has not had an impact on military readiness or good order and discipline. I am currently on month six of an eight month deployment on board the USS Carl Vinson. During this time, I have performed my duties as evidenced by 245 flight hours, which were not limited to direct interaction with the flight crew, passengers for flight transport including foreign nationals, and two SEAL teams for live troop work. I recently checked into the HSC-4 command and received a reporting evaluation covering the last six months with a Recommended for Retention and ranking 10 out of 26 first class petty officers. Granting this request for exemption, would not impact military readiness or good order and discipline as it has not done so since this pandemic began.

3. My unimmunized for SARS CoV-2 state has not had an impact on health and safety on both individual and unit levels. Before this deployment, I did a two week ROM sequester. I tested in and out of ROM with a negative SARS CoV-2 test, as did the other 75 sailors that completed this with me. I then boarded the ship on July 2, 2021.

During this deployment, there have been 2 port visits to Coronado, CA and a port visit to Japan, where immunized for SARS CoV-2 sailors had liberty and the unimmunized for SARS CoV-2 were restricted to the ship. During these instances, CoV-2 testing began once underway. It was stopped within three days because there were too many positive CoV-2 test results for immunized for SARS CoV-2 sailors. Most recently, our ship had a goal to visit Australia. Per

Enclosure (1)

their governmental guidelines, our sailors had to submit to random testing with a negative result on all tests to be allowed a port call. Due to positive tests from the first group of our fully immunized sailors, this mission was reconsidered and canceled. This proves that sailors continue to transmit and contract SARS CoV-2 despite immunizations for SARS CoV-2.

Also, due to previous infection from SARS CoV-2, I have protective natural antibodies post-infection that are sustained longer than that of the vaccine (Comparing SARS-CoV-2 natural Immunity to Vaccine-Induced Immunity: reinfections versus breakthrough Infections 24 August 2021) This study of 778,658 individuals demonstrated that natural immunity confers longer lasting and stronger protection against infection, symptomatic disease, and hospitalization caused by the Delta variant of SARS-CoV-2, compared to the BNT162b2 two-dose vaccine-induced immunity. This study also showed natural immunity is 27 times more effective than vaccinated immunity and supports the hundred plus studies that have come to the same conclusion, including the most recent Qatar Study (Severity of SARS-CoV-2 Reinfections as Compared with Primary Infections, 24 November 2021.) This natural immunity falls within the medical exemption code of Medical, Immune according to Ref. (d).

Immunity due to natural infection is the gold standard in medicine and in the Armed Forces. Disallowing for immunity from natural infection for SARS CoV-2 is a deviation from all current guidance related to all other immunizations. Ref. (d) states that sailors are to be screened for preexisting immunity before injection. In Encl (4), the Center for Disease Control and Prevention Agency confirm that no documents exist that: "Documents reflecting any documented case of an individual who (1) never received a Covid-19 vaccine, (2) was infected with Covid-19 once, recovered, and then later became infected again; and (3) transmitted SARS CoV-2 to another person when reinfected." Therefore, granting this religious exemption would not impact the health and safety of the individual or the unit according to Ref. (e).

4. Granting this religious request is of upmost importance. Ref. (a) and (b), the Religious Freedom Restoration Act (RFRA) states that, "Government shall not substantially burden a person's exercise of religion," with the exception that "Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." For this Sherbert Test to apply, the government has the burden of proving that this order to receive the SARS CoV-2 immunization is more compelling than my religious freedom. According to Ref. (f) previous case law, the government cannot judge whether my beliefs are "mistaken or insubstantial," and they cannot determine the plausibility of my religious claim. This sentiment was also confirmed in a leaked audio call between DOJ lawyer Marty Lederman and the White House in September 2021. This lawyer is speaking about the case *Dr. A, et al, v Kathy Hochul, Governor of the State of New York et al*. He summarizes that the plaintiffs are a group of doctors and nurses that are refusing the vaccines because it either contains or was tested using fetal cell lines and that by taking any part "makes them cooperative with an evil in a way that their religion prohibits." In response he acknowledges, "I don't want to say anything too categorical, but I believe that this claim will be very difficult for agencies to successfully claim that's either insincere or not religious, even if it is. Even if we know that many of those claims are not sincere, or are sincere but not religions, this is the most common behavior you're going to confront probably, and it's likely that you will

have to take as a given the employee's claim."

Ref. (c), states "Religious liberty is more than freedom to worship. It includes the freedom to integrate one's religion into every aspect of one's life." I have had a relationship with the Lord Jesus Christ since I was seventeen years old. At that time, I believed that I was a sinner and that there was no way that I could pay for my sins on my own. I knew that the penalty of sin is death. That day I put my faith and trust in Jesus that He died on the cross in payment for my sin and that He rose from the dead three days later and He now lives in the form of the Holy Spirit in the hearts of all who believe this. Even as a baby grows, so I grew in my faith in Jesus. I was and am determined to obey His guidance from His Word, the Bible, and the Holy Spirit.

In the same way that it is against God's law to shoplift (steal) or to look at a woman to lust for her (adultery) or to say something that is untrue (lying), the same is true that I may have no part in taking these CoV-2 vaccines (abortion=murder). In the New Testament, by Jesus' own words, it isn't enough that I do not do the physical act of wrong, like murdering. If I even think these things in my heart, God will hold me accountable for sin. Jesus wants me to have a clean and pure thought life as well. I am not perfect in all things, but Jesus says that if I confess my sins, He is faithful, and just to forgive my sins and to cleanse me from all unrighteousness (1 John 1:9) This does not give me license to sin on purpose, knowing that I will be forgiven. "What shall we say then? Shall we continue in sin, that grace may abound? God forbid." Romans 6: 1-2a

Refusal of this request for accommodation is akin to religious persecution and it is in direct violation of my First Amendment rights. This request does not endanger me or others and it has shown to have no effect on mission readiness or good order and discipline. Why am I being asked to choose between fidelity to my religious beliefs and the continuance of my employment? Furthermore, failure to accommodate is not observing the Navy Equal Opportunity Program, Ref. (g). DON policy prohibits harassment and unlawful discrimination against persons or groups based on race, color, religion, sex (including gender identity), national origin, or sexual orientation. This includes abiding by the Navy's core values and the sailor's creed "Committed to excellence and the fair treatment of all." How could the Navy do anything else except to accommodate this request?

5. The goal of this order could be achieved in an alternative way that would not violate my religious freedom. This goal is already being achieved. I have submitted to a pre-deployment ROM sequester, quarantine at home, testing, masking, and distancing. I am currently being tested weekly to continue to abide by the guidance set forth for unimmunized for SARS CoV-2 sailors.

6. Another consideration for granting this request is determining what the cumulative impact would be to repeatedly granting similar requests. It would be in the Navy's best interest and worth to accommodate and provide retention. I am 1 of 16,643 active duty that have a pending request for accommodation within the Department of Defense. The disapproval of this request and those like mine would create an exodus of irreplaceable talent from the military community. The consequences will cause grave concerns and self-inflicted damage to our military readiness. It will also affect future military readiness by creating a culture known to disregard religious

freedom and in turn be a detriment to recruiting people of faith. This is in direct contradiction to the Department of Defense's goal for inclusivity and diverseness.

It would cost millions of taxpayer training dollars to replace separated service members. For example, in order to become a fully qualified Naval Aircrewman, you must go through five different schools over two years (one school with an attrition rate of 60%), and two years of initial qualification training and flight hours. The worth of accommodation is incalculable and would retain personnel with years and thousands of flight hours of peak professional experience, high level clearance, and subject matter expertise that simply cannot be backfilled overnight.

7. I am currently in my sixteenth year of service, and I have faithfully served my country and Commander in Chief during this time. It is my desire and intention to continue serving as I always have. Additionally, I am willing to pursue transfer to a location that according to the military classification is least impactful to mission accomplishment, good order, discipline, morale, unit cohesion, health, and safety for the remainder of my service contract.

If despite this reasonable and genuine appeal, the Navy still sees fit to not accommodate my deep conviction in this matter, I ask to be forthwith honorably separated from the Navy.

(b) (6)

A.W. Crabb



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser N1/116417
2 Dec 21

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)
To: AWS1 Aaron W. Crabb, USN
Via: Commanding Officer, Helicopter Sea Combat Squadron FOUR

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF IMMUNIZATION REQUIREMENTS

Ref: (a) 42 U.S.C. §2000bb-1
(b) DoD Instruction 1300.17 of 1 September 2020
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) MILPERSMAN 1730-020
(f) United States Attorney General memo of 6 Oct 17
(g) Your ltr of 7 Sep 21 w/ends
(h) BUMED ltr 6320 Ser M44/21UM42751 of 22 Nov 21

1. Pursuant to references (a) through (h), your request for religious accommodation through waiver of immunization requirements is disapproved. You must receive all required vaccines. However, you are free to request from your healthcare provider alternative vaccines that are available and meet the Navy's immunization requirements, as determined by a credentialed military healthcare provider. You are free to choose which COVID-19 vaccine to take. If you choose a COVID-19 vaccine that requires two doses, you must receive your first dose within five calendar (5) days upon receipt of this letter and complete the series as prescribed. If you choose a one-dose vaccine you must receive the vaccine within five calendar (5) days upon receipt of this letter.

2. In line with references (b) through (d), I am designated as the approval authority for requests for religious accommodation.

3. Reference (a), the Religious Freedom Restoration Act (RFRA), states that the Government may substantially burden an individual's exercise of religion only if it demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Reference (b) incorporates the RFRA and notes that the Government has a compelling interest in mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels. Additionally, unless it will have an adverse impact on mission accomplishment, including military readiness, unit cohesion and good order and discipline, the Navy will accommodate individual expressions of sincerely held beliefs of Sailors. Reference (f) emphasizes that only those interests of the highest order can overbalance legitimate claims to the free exercise of religion.

Encl(1)

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS

4. All requests for accommodation of religious practices are assessed on a case-by-case basis. In line with references (b) and (c), determination of a request for religious accommodation requires consideration of the following factors:

- a. Impact on military readiness, unit cohesion, good order and discipline, health and safety
- b. Religious importance of the request
- c. Cumulative impact of repeatedly granting similar requests
- d. Whether there are alternatives available to meet the requested accommodation and
- e. How other such requests have been treated

5. In making this decision, I reviewed reference (g), including the endorsements from your chain of command, the local chaplain and the advice of Chief, Bureau of Medicine and Surgery in reference (h).

a. A waiver of immunizations would have a predictable and detrimental effect on your readiness and the readiness of the Sailors who serve alongside you in both operational and non-operational (including training) environments. Primary prevention of disease through immunizations has been a key enabler for maintaining force health and avoiding disease-related non-battle injury. Granting your request will have a direct and foreseeable negative impact on the compelling Government interests of military readiness and health of the force.

b. While serving in the U.S. Navy, you will inevitably be expected to live and work in close proximity with your shipmates. I find that disapproval of your request for a waiver of immunization requirements is the least restrictive means available to preserve the Department of Defense's compelling interest in military readiness, mission accomplishment and the health and safety of military Service Members.

6. The Navy is a specialized community governed by a discipline separate from that of the rest of society. While every Sailor is welcome to express a religion of choice or none at all, our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.

(b) (6)

JOHN B. NOWELL, JR

Copy to:
OPNAV (N131, N0975)
BUMED
CVW-2

12 December 2021

AWS1, Crabb Aaron, W., USN, Helicopter Sea Combat Squadron FOUR

Accomplishments and Contributions to Mission Readiness at HSC-4 beginning 01 April 2021

- Flight Hour Accomplishments
 - May - 17.2
 - July – 82.4
 - August – 25
 - September – 40.1
 - October – 30.8
 - November – 39.5
 - December 10.6
- SAR Jumps
 - Requalification in March
 - Primary hoist operator for SAR Jump training in October for twelve Aviation Rescue Swimmers and three CVN-70 Surface Rescue Swimmers
- Vertical replenishment
 - Ordnance onload of 78 loads in support of USS Carl Vinson 2021 Deployment
 - 65 loads of Food and Mail
- Gun Shoot requalification in May/August/September/November
- Passenger Transportation
 - Move of six personnel in July between two ships
 - Move of five personnel in August between two ships
 - Move of four personnel in September between two ships
 - Move of four personnel in November to and from a Japanese Carrier
 - Move of one person to a Canadian Ship
- Terrain Flight Landing currency
 - July - Naval Air Station North Island/Otay Landing Zone
 - August – El Centro area
 - September – Kadena, Japan
 - November – Guam, USA
- Live Troop work
 - Seal Team 1 initial qualification deployment training for 60 personnel
 - Seal Team 7 annual currency Paradrop training on Guam for 30 personnel

Encl(2)

EVALUATION REPORT & COUNSELING RECORD (E1-E6)

RCS BUPERS 1610-1

1. Name (Last, First MI Suffix) CRABB, AARON W				2. Rate AWS1		3. Desig NAC/AW		4. SSN 000-00-0000	
5. ACT <input checked="" type="checkbox"/> FTS <input type="checkbox"/> INACT <input type="checkbox"/> AT/ADSW/ <input type="checkbox"/> 263		6. UIC 09164		7. Ship/Station HSC-4		8. Promotion Status REGULAR		9. Date Reported 21APR30	
Occasion for Report 10. Periodic <input checked="" type="checkbox"/> 11. of Individual <input type="checkbox"/> 12. Frocking <input type="checkbox"/> 13. Special <input type="checkbox"/>				Period of Report 14. From 21MAR31 15. To 21NOV15					
16. Not Observed Report <input type="checkbox"/>		Type of Report 17. Regular <input checked="" type="checkbox"/> 18. Concurrent <input type="checkbox"/>		20. Physical Readiness B		21. Billet Subcategory (if any) NA			
22. Reporting Senior (Last, FI MI) (b) (6)		23. Grade CDR		24. Desig 1310		25. Title CO		26. UIC 09164	
						27. SSN 000-00-0001			
28. Command employment and command achievements. Provide combat ready aircraft and combat ready crews in support of warfare commander tasking across a full spectrum of military operations. DETACHED: AWF-1, SUMMEREX-1, COMPTUEX-1, WESTPAC-4.									
29. Primary/Collateral/Watchstanding duties. (Enter primary duty abbreviation in box.) TRAINING LPO PRI: Training LPO-7. Led 7 sailors in the management of 31 Aircrewmen utility and ground training syllabi. COLL: ACTC LVL III-7; Rescue Swimmer-7; AG-7; FCPOA EC-7; CMD Lay Leader-7; UTR POC-7; CMD Security MNGR-7. WATCH: ASDO-7, Duty Driver-7, Ready Duty SAR-7. TEMADD/LV: 21MAR31-21APR30. PFA: CY-21.									
For Mid-term Counseling Use: (When completing EVAL, enter 30 and 31 from counseling worksheet and sign 32.)				30. Date Counseled NOT PERF		31. Counselor		32. Signature of Individual Counseled	
PERFORMANCE TRAITS 1.0 - Below standards/not progressing or UNSAT in any one standard; 2.0 - Does not yet meet all 3.0 standards; 3.0 - Meets all 3.0 standards; 4.0 - Exceeds most 3.0 standards; 5.0 - Meets overall criteria and most of the specific standards for 5.0. Standards are not all inclusive.									
PERFORMANCE TRAITS	1.0* Below Standards	2.0 Pro- gressing	3.0 Meets Standards	4.0 Above Standards	5.0 Greatly Exceeds Standards				
33. PROFESSIONAL KNOWLEDGE Technical knowledge and practical application. NOB <input type="checkbox"/>	-Marginal knowledge of rating, specialty or job. -Unable to apply knowledge to solve routine problems. -Fails to meet advancement/PQS requirements		-Strong working knowledge of rating, specialty and job. -Reliably applies knowledge to accomplish tasks. -Meets advancement/PQS requirements on time.	<input checked="" type="checkbox"/>	-Recognized expert, sought out by all for technical knowledge. -Uses knowledge to solve complex technical problems. -Meets advancement/PQS requirements early/with distinction.				
34. QUALITY OF WORK Standard of work, value of end product. NOB <input type="checkbox"/>	-Needs excessive supervision. -Product frequently needs rework. -Wasteful of resources.		-Needs little supervision. -Produces quality work. Few errors and resulting rework. -Uses resources efficiently.	<input checked="" type="checkbox"/>	-Needs no supervision. -Always produces exceptional work. No rework required. -Maximizes resources.				
35. COMMAND OR ORGANIZATIONAL CLIMATE/EQUAL OPPORTUNITY Contributing to growth and development, human worth, community. NOB <input type="checkbox"/>	-Actions counter to Navy's retention/reenlistment goals. -Uninvolved with mentoring or professional development of subordinates. -Actions counter to good order and discipline and negatively affect Command/Organizational climate. -Demonstrates exclusionary behavior. Fails to value differences from cultural diversity.		-Positive leadership supports Navy's increased retention goals. Active in decreasing attrition. -Actions adequately encourage/support subordinates' personal/professional growth. -Demonstrates appreciation for contributions of Navy personnel. Positive influence on Command climate. -Values differences as strengths. Fosters atmosphere of acceptance/inclusion per EO/EEO policy.	<input checked="" type="checkbox"/>	-Measurably contributes to Navy's increased retention and reduced attrition objectives. -Proactive leader/exemplary mentor. Involved in subordinates' personal development leading to professional growth/sustained commitment. -Initiates support programs for military, civilian, and families to achieve exceptional Command and Organizational climate. -The model of achievement. Develops unit cohesion by valuing differences as strengths.				
36. MILITARY BEARING CHARACTER Appearance, conduct, physical fitness, adherence to Navy Core Values. NOB <input type="checkbox"/>	-Consistently unsatisfactory appearance. -Poor self-control; conduct resulting in disciplinary action. -Unable to meet one or more physical readiness standards. -Fails to live up to one or more Navy Core Values: HONOR, COURAGE, COMMITMENT.		-Excellent personal appearance. -Excellent conduct conscientiously complies with regulations. -Complies with physical readiness program. -Always lives up to Navy Core Values: HONOR, COURAGE, COMMITMENT.	<input checked="" type="checkbox"/>	-Exemplary personal appearance. -Model of conduct, on and off duty. -A leader in physical readiness. -Exemplifies Navy Core Values: HONOR, COURAGE, COMMITMENT.				
37. PERSONAL JOB ACCOMPLISHMENT INITIATIVE Responsibility, quantity of work. NOB <input type="checkbox"/>	-Needs prodding to attain qualification or finish job. -Prioritizes poorly. -Avoids responsibility.		-Productive and motivated. Completes tasks and qualifications fully and on time. -Plans/prioritizes effectively. -Reliable, dependable, willingly accepts responsibility.	<input checked="" type="checkbox"/>	-Energetic self-starter. Completes tasks or qualifications early, far better than expected. -Plans/prioritizes wisely and with exceptional foresight. -Seeks extra responsibility and takes on the hardest jobs.				

EVALUATION REPORT & COUNSELING RECORD (E1-E6) (cont'd)

RCS BUPERS 1610-1

1 Name (Last, First MI Suffix) CRABB, AARON W		2 Rate AWS1		3 Desig NAC / AW		4 SSN 0000-0000-0000	
PERFORMANCE TRAITS		10* Below Standards	20 Progressing	30 Meets Standards	40 Above Standards	50 Greatly Exceeds Standards	
38. TEAMWORK: Contributions to team building and team results. NOB <input type="checkbox"/>		- Creates conflict, unwilling to work with others, puts self above team. - Fails to understand team goals or teamwork techniques. - Does not take direction well.	-	- Reinforces others' efforts, meets commitments to team. - Understands goals, employs good teamwork techniques. - Accepts and offers team direction.	-	- Team builder, inspires cooperation and progress. - Focuses goals and techniques for teams. - The best at accepting and offering team direction.	
39. LEADERSHIP: Organizing, motivating and developing others to accomplish goals. NOB <input type="checkbox"/>		- Neglects growth/development or welfare of subordinates. - Fails to organize, creates problems for subordinates. - Does not set or achieve goals relevant to command mission and vision. - Lacks ability to cope with or tolerate stress. - Inadequate communicator. - Tolerates hazards or unsafe practices.	-	- Effectively stimulates growth/development in subordinates. - Organizes successfully, implementing process improvements and efficiencies. - Sets/achieves useful, realistic goals that support command mission. - Performs well in stressful situations. - Clear, timely communicator. - Ensures safety of personnel and equipment.	-	- Inspiring motivator and trainer, subordinates reach highest level of growth and development. - Superb organizer, great foresight, develops process improvements and efficiencies. - Leadership achievements dramatically further command mission and vision. - Perseveres through the toughest challenges and inspires others. - Exceptional communicator. - Makes subordinates safety-conscious, maintains top safety record. - Constantly improves the personal and professional lives of others.	
40. Individual Trait Avg. Total of trait scores divided by number of graded traits. 3.00		41. I recommend this individual for (maximum of two): Assignment in Rating, Sea Special Programs, Shore Special Programs, Commissioning Programs, Special Warfare Programs, Rating Instructor Duty, Other (Be specific) CPO		42. Signature of Ratee (Typed Name & Rate) I have evaluated this member against the above performance standards and have forwarded written explanation of marks 10 and 10 (b) (6)		Date: AWSC (NAC / AW)	
43. COMMENTS ON PERFORMANCE: * AW 10 marks, three 20 marks, and 20 marks in Block 35 must be specifically substantiated in comments. Comments must be verifiable. Font must be 10 or 12 Pitch (10 or 12 point) only. Use upper and lower case.							
<p>Energetic and highly motivated leader, a "hot runner" with proven quality performance.</p> <p>- EXCEPTIONAL LEADER. Led seven personnel in ground training, board scheduling and syllabus progression tracking for 31 aircrewmen. His leadership culminated in ACTC and Utility syllabus progression with 73 qualifications and 12 ACTC upgrades, resulting in a 75% increase in readiness, meeting DRRS-N requirements for workups and deployment.</p> <p>- INDUSTRIOUS COMMITMENT. Requalified ACTC LVL III and Aerial Gunner. Revised the divisional mentorship program resulting in two Sailor of the Week awards.</p> <p>- CIVIC MINDED. As the ECPOA Events Coordinator, led the coordination and successful support of 11 Sailors over 21 hours at Support The Enlisted Project, sorting clothing and food items, donating to enlisted Sailors and Marines in the greater San Diego area. Devoted 12 hours of off duty time during an international port visit to Yokosuka, Japan, serving food to 5,000 CVN-70 Sailors, increasing MWR funds by \$3,500. Volunteered 11 hours during 15 United Through Reading sessions, supporting shipmates by easing the stress of family separation, encouraging literacy and bridging the distance of families for 15 Sailors. PSG RSCA: 3.82</p> <p>A HIGH ACHIEVER, ALWAYS ATTAINS DESIRED RESULTS. RECOMMENDED FOR ADVANCEMENT TO CPO!</p>							
44. QUALIFICATIONS/ACHIEVEMENTS - Education, awards, community involvement, etc., during this period. QUALS: EAWS MH60S, Small Arms Line Coach, SERE-245, Shipboard Barber. COMM: STEP (21 hours), ECPOA Yokosuka (12 hours), CVN-70 ECPOA Events (33 hours).							
Promotion Recommendation	NOB	Significant Problems	Progressing	Promotable	Must Promote	Early Promote	47. Retention Not Recommended <input type="checkbox"/> Recommended <input checked="" type="checkbox"/>
45. INDIVIDUAL				X			48. Reporting Senior Address COMMANDING OFFICER HELSEACOMBATRON FOUR PO BOX 357101 SAN DIEGO CA 92135-7101
46. SUMMARY		0	0	11	11	6	
49. Signature of Senior Ratee (Typed Name & Grade/Rate). I have reviewed the evaluation of this member against these performance standards and have provided written explanation to support the marks of 10 and 50. (b) (6) LCDR					50. Signature of Reporting Senior (b) (6)		
Date:					Date: 17 NOV 21		
51. Signature of Individual Evaluated "I have seen this report, been apprised of my performance, and understand my right to submit a statement." I intend to submit a statement. <input type="checkbox"/> I do not intend to submit a statement. <input type="checkbox"/> Date:					Summary Group Average: 3.71		
52. Type name, grade, command, UIC, and signature of Regular Reporting Senior on Concurrent Report Date:							



November 05, 2021

SENT VIA EMAIL

(b) (6)

2nd Letter Subject: Final Response Letter

Dear Ms. Brehm:

The Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) received your September 02, 2021, Freedom of Information Act (FOIA) request on September 02, 2021, seeking:

"Documents reflecting any documented case of an individual who: (1) never received a COVID-19 vaccine; (2) was infected with COVID-19 once, recovered, and then later became infected again; and (3) transmitted SARS-CoV-2 to another person when reinfected."

A search of our records failed to reveal any documents pertaining to your request. The CDC Emergency Operations Center (EOC) conveyed that this information is not collected.

You may contact our FOIA Public Liaison at 770-488-6277 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Deputy Agency Chief FOIA Officer, Office of the Assistant Secretary for Public Affairs, U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue, Suite 729H, Washington, D.C. 20201. You may also transmit your appeal via email to FOIARequest@pssc.hhs.gov. Please mark both your appeal letter and envelope "FOIA Appeal." Your appeal must be postmarked or electronically transmitted by February 03, 2022.

Sincerely,

(b) (6)

August 15, 2021

MEMORANDUM FOR RECORD

SUBJECT: Pastor Verification Letter for Aaron W. Crabb

To whom it may concern, I understand that Aaron W. Crabb has submitted a religious accommodation request from the COVID vaccine directive. As his pastor, I can speak to the sincerity of his faith and his request. Aaron W. Crabb told me that after the directive to accept the COVID vaccine came out, he started searching the Scriptures as to how he should respond, and if he should accept the shot.

Aaron W. Crabb is a Christian, and believes the Bible to be the inspired, inerrant, holy, living Word of God as God's word states in II Timothy 3:16. Our Lord teaches a sanctification of our body. God tells us that we are a new creature in Him in II Corinthians 5:17. As a new creature in the Lord our pledge to the Lord is to live in His image and be Christ like without blemish and without spot as we are commanded in Romans 8:29, I Corinthians 15:49, II Corinthians 3:18, Colossians 1:15, Colossians 3:10, and Hebrews 1:3. When Jesus Christ went back to heaven after He was resurrected, He promised to send his Holy Spirit, who would guide us into all truth as told in John 14:16 & 26, 15:26, and John 16:7. Our church teaches that each believer in Christ receives the Holy Spirit, who directly leads the individual in his walk with God, as the believers seeks wisdom through prayer and Scripture reading as the Lord teaches in John 5:39, Acts 17:11, Romans 15:4, Romans 16:26, and II Timothy 3:15. Our church teaches that believers should follow their conscience, as informed by the written word of God, and the leading of his Holy Spirit. Our church teaches the Biblical sanctity of human life, and the Biblical interdiction against abortion as the shedding of innocent blood. This is described in Proverbs 19:23. Christians understand this interdiction to include ingesting or benefiting from products derived from or using aborted fetal cell lines.

Aaron W. Crabb has told me that based on his review of Centers for Disease Control (CDC) guidance and position statements, and understanding of the issues, and much prayer that he might discern truth from error, and whether he should get the shot, the Holy Spirit is not allowing him to accept the COVID shot. He believes that if he were to do so, he would be sinning against our living God in defiling his body and not keeping his Godly temple pure. Our church supports him as he follows the leading of the Holy Spirit and supports his request for a religious accomodation.

(b) (6)



DEPARTMENT OF THE NAVY
HELICOPTER SEA COMBAT SQUADRON FOUR
PO BOX 357101
SAN DIEGO CA 92135-7101

1000
Ser 00/184
10 Sep 21

From: Commanding Officer, Helicopter Sea Combat Squadron FOUR
To: Chief of Naval Personnel
Via: Commander, Carrier Air Wing TWO

Subj: DISAPPROVAL RECOMMENDATION ICO AWS1 AARON CRABB RELIGIOUS
ACCOMODATION

Ref: (a) DoD Instruction 1300.17
(b) SECNAVINST 1730.8
(c) BUPERSINST 1730.11
(d) BUMEDINST 6230.15B
(e) MILPERSMAN 1730-020
(f) Secretary of Defense Memo of 24 Aug 2021, "Mandatory Coronavirus Disease
Vaccination of Department of Defense Service Members
(g) NAVADMIN 110/21
(h) COMPAFLT GENADMIN OF CONSOLIDATED CPF COVID-19 GUIDANCE 4.2

Encl: (1) AWS1 Crabb request of 7 September 21
(2) AWS1 Crabb 1070/613 of 7 September 2021
(3) Military chaplain endorsement dtd 6 September 2021
(4) Healthcare provider counseling dtd 3 September 2021

1. Per reference (a) through (i), I am forwarding this request recommending disapproval in full.
2. The following information was considered or is provided for consideration as applicable.

a. Secretary of Defense guidance, reference (f), and Chief of Naval Operations guidance, reference (h), require Petty Officer Crabb to receive a COVID-19 vaccine. Further, Commander, U.S. Pacific Fleet guidance in reference (i) prescribes necessary measures to preserve mission assurance and force health protection. An exception to policy would have a negative impact on safety in my unit given community transmission levels associated with the Delta Variant of COVID-19.

b. The importance of the applicable military policies highlights the risks to mission readiness and health of the force associated with having a non-immunized force. Accordingly, I recommend disapproval of Petty Officer Crabb's request in order to both minimize the risk of community transmission of COVID-19 and ensure Petty Officer Crabb's wellbeing so that my squadron can maintain its ability to execute all assigned tasking.

Enclosure (2)

c. Denial of Petty Officer Crabb's request furthers compelling government interests – health of the force, military readiness, and mission assurance. There is no less restrictive means of accommodating Petty Officer Crabb's request due to his request to be exempted from all three currently available COVID-19 vaccines.

d. There are (0) service members in my squadron who have been granted a similar exemption.

3. A military chaplain endorsement of Petty Officer Crabb's request is attached as enclosure (3). I believe Petty Officer Crabb is sincere in his personal beliefs. Petty Officer Crabb received required counseling from a healthcare provider, attached as enclosure (4).

4. My point of contact (POC) for this matter is CDR (b) (6) who can be reached at (b) (6) @cvw2.navy.mil.

5. This recommendation was submitted to me on 8 September 2021 and will be emailed to OPNAV N131 for review/decision, via Commander Carrier Air Wing TWO.

(b) (6)

T. J. MURRAY

Copy to:
AWS1 Crabb

ADMINISTRATIVE REMARKS

NAVPERS 1070/613 (REV. 08-2012) PREVIOUS EDITIONS ARE OBSOLETE

SUPPORTING DIRECTIVE MILPERSMAN 1070-320

SHIP OR STATION:

HELICOPTER SEA COMBAT SQUADRON FOUR

SUBJECT:

COVID-19 Vaccination Administrative Counseling/Warning - Religious Accommodation Request Disapproval

☒ PERMANENT☐ TEMPORARY

AUTHORITY (IF PERMANENT)

NAVADMIN 190/21

On 7 Dec 2021, Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education)(N1) disapproved your request for religious accommodation through waiver or immunization requirements dated 2 Dec 2021. You have the right to submit an appeal within 5 business days to the Chief of Naval Operations via the chain of command using the same format as your initial request.

IAW lawful general orders and regulations and CSG-1 lawful orders, COVID-19 vaccination is mandatory for all Navy service member who are not exempt.

Any service members refusing the COVID-19 vaccination, absent a pending or approved exemption, may be subject to adverse administrative action (for example, adverse FITREP/EVAL, ACD/NEC removal, administrative/legal hold, promotion delay, advancement withhold, DFC, and Involuntary Separation subject to recoupment of any applicable bonuses, special pay or incentives, and the cost of training and education) and/or disciplinary action. Members not in compliance may also be reassigned regardless of exemption status based on operational readiness and mission requirements.

(b) (6) 1. You are ordered to initiate vaccination with an FDA-licensed vaccine or, optionally and alternatively, with a vaccine authorized for emergency use. If you choose a COVID-19 vaccine that requires two doses, you must receive the first dose within five calendar (5) days of today's date and complete the series as prescribed. If you choose a one-dose vaccine, you must meet the established vaccination timeline or receive the vaccine within five calendar (5) days of today's date, whichever is later. This is a lawful order. Failure to comply with this order constitutes a violation of the Uniform Code of Military Justice and may result in punitive or administrative action unless otherwise exempt. Proof of vaccination is required and must be entered in your medical record.

(b) (6) 2. COVID-19 vaccines that have received FDA licensure are a readiness requirement and are mandated for service members. Service members voluntarily immunized with a COVID-19 vaccine under FDA Emergency Use Authorization (EUA) or World Health Organization Emergency Use Listing in accordance with applicable dose requirements prior to, or after, the establishment of this policy are considered fully vaccinated in compliance with this order.

(b) (6) 3. Prior to receiving a COVID-19 vaccine, you will be provided access to healthcare providers to address questions or concerns and receive counseling regarding COVID-19 vaccination.

Member must initial all that apply below:

(b) (6) I acknowledge the above counseling/warning and understand its contents.

(b) (6)

Member's Signature Date/Signed

16 CDR / 7 Dec 2021
Commanding Officer

(b) (6)

Witness' Signature Date/Signed

7 Dec 21

ENTERED AND VERIFIED IN ELECTRONIC SERVICE RECORD:

VERIFYING OFFICIAL RANK OR GRADE/TITLE:

DATE:

SIGNATURE OF VERIFYING OFFICIAL:

YNC / Admin LCPD

7 DEC 21

(b) (6)

NAME (LAST, FIRST, MIDDLE):

SOCIAL SECURITY NUMBER:

BRANCH AND CLASS:

CRABB, AARON W

USN/AD

FOR OFFICIAL USE ONLY
PRIVACY SENSITIVE

Encl(3)

MILPERSMAN 1730-020

IMMUNIZATION EXEMPTIONS FOR RELIGIOUS BELIEFS

Responsible Office	OPNAV (N131)	Phone:	DSN COM	664-5015 (703) 604-5015
MyNavy Career Center		Phone: Toll Free	1-833-330-MNCC (6622)	
		E-mail:	askmncc@navy.mil	
		MyNavy Portal:	https://my.navy.mil/	

References	(a) DoD Instruction 1300.17 of 10 February 2009 (b) BUPERSINST 1730.11A (c) BUMEDINST 6230.15B (d) SECNAVINST 1730.9A (e) SECNAVINST 1920.6D
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1. **Policy.** The Navy requires immunizations for all Sailors, based on its compelling interest in the health and safety of the military workforce. Pursuant to references (a) and (b), religious exemptions of immunization requirements will include the justification and endorsements in paragraphs 4 and 5 of this article prior to routing to the Chief of Naval Personnel (CHNAVPERS) for decision. Non-religious medical waivers of immunization requirements will be adjudicated by the health care provider as addressed in reference (c).

2. **Authority.** Authority to grant medical waivers of immunization requirements is vested at the Bureau of Medicine and Surgery (BUMED). Authority to grant religious exemptions of immunization requirements is vested with CHNAVPERS.

3. **Application Procedure.** Service members requesting religious exemption of immunization requirements will forward their requests to CHNAVPERS via their commanding officers (CO) or immediate superiors in command. Submission guidance for commands is provided in reference (b).

4. **Contents of Service Member's Request.** The request will include the following information:

- a. Full name and grade,

b. Immunization(s) exemption requested and the reason why the exemption is needed, and

c. The following signed [NAVPERS 1070/613](#) Administrative Remarks, using the following format:

"I request a waiver of the (state the type) immunization. I hereby state that my request is based upon (religious objection to immunization or other reasons specifically described). I acknowledge having received the following counseling:

1. Failure to obtain immunization poses additional risk to my health upon exposure to disease.

2. In the event of foreign travel, I may be detained during travel across foreign borders due to international health regulations.

3. If granted, a waiver may be revoked by my commanding officer if I am at imminent risk of disease or due to international health regulations.

4. If my job duties change, I may need to route a new request.

5. If I am at my permanent change of station while my waiver is in effect, I may need to route a new request if my job duties change, my geographic region exposes me to the aforementioned disease, or other factors exist that could put me at imminent risk of disease.

Service Member's Signature

Witnessed:

5. **Content of Commander's Endorsement.** In line with reference (b), COs must endorse every request for religious accommodation through waiver of immunization requirements. The content of the endorsement must include:

a. An endorsement from a military chaplain in line with reference (d),

b. A recommendation to approve or disapprove the request,

c. Relevant information concerning the applicable operational or regional policies,

d. Negative effect (if any) on mission accomplishment (i.e., military readiness, unit cohesion, good order, discipline, health, and safety),

e. The number of Service members in the command that have been granted a similar exemption for non-religious purposes, and

f. When recommending denial of the request, a determination that the denial furthers a compelling governmental interest (such as those identified in subparagraph 5d above), and that there is no less restrictive means of accommodating the request, such as an available alternative vaccination that meets both the religious need and the Navy's immunization requirements as determined by BUMED.

6. **Applicant Counseling.** COs will ensure applicants are counseled concerning the following, in line with subparagraph 4c above:

a. The additional risk to health on exposure to disease against which the applicant will not be protected by a military physician who informs Service member of diseases concerned, and benefits and risks of vaccine;

b. The possibility that the applicant may be detained during travel across international borders due to international health regulations; and

c. The possibility that individuals granted such exemptions may have their waivers revoked if they are at imminent risk of disease (e.g., exposure to anthrax, measles, cholera, etc.) or due to international health regulations.

7. **Revocation of Waiver by CO.** COs may, without prior approval, revoke a Service member's authorized immunization waiver in the event of imminent risk of disease due to exposure or as a result of international health regulations incident to foreign travel. If a Service member's immunization waiver is revoked, such action must be reported to CHNAVPERS and BUMED Public Health and Safety Division (M44) by message as soon as possible.

8. **Administrative and Disciplinary Actions**

a. In line with reference (a), Service members submitting requests for religious accommodations will comply with the

policy, practice, or duty from which they are requesting accommodation, unless or until the request is approved.

b. Service members whose waivers have been disapproved, or those who refuse to take immunizations without approved waivers, may be subject to administrative and or disciplinary actions, as deemed appropriate by COs, for violation of a lawful order.

c. Actions include:

(1) Formal counseling and warning recorded on [NAVPERS 1070/613](#),

(2) Nonjudicial punishment,

(3) Court-martial, or

(4) Processing for administrative separation.

d. See [MILPERSMAN 1910-120](#), [1910-142](#), [1910-164](#), and [1910-402](#) for guidance on enlisted separations. See reference (d) for officer separations.



Office of the Attorney General

Washington, D.C. 20530

October 6, 2017

MEMORANDUM FOR ALL COMPONENT HEADS AND UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL

(b) (6)

SUBJECT: Implementation of Memorandum on Federal Law Protections
for Religious Liberty

The President has instructed me to issue guidance interpreting religious liberty protections in federal law. Exec. Order 13798, § 4 (May 4, 2017). Pursuant to that instruction and consistent with my authority to provide advice and opinions on questions of law to the Executive Branch, I have undertaken a review of the primary sources for federal protection of religious liberty in the United States, along with the case law interpreting such sources. I also convened a series of listening sessions, seeking suggestions regarding the areas of federal protection for religious liberty most in need of clarification or guidance from the Attorney General.

Today, I sent out a memorandum to the heads of all executive departments and agencies summarizing twenty principles of religious liberty and providing an appendix with interpretive guidance of federal-law protections for religious liberty to support those principles. That memorandum and appendix are no less applicable to this Department than to any other agency within the Executive Branch. I therefore direct all attorneys within the Department to adhere to the interpretative guidance set forth in the memorandum and its accompanying appendix.

In particular, I direct the Department of Justice to undertake the following actions:

- All Department components and United States Attorney's Offices shall, effective immediately, incorporate the interpretative guidance in litigation strategy and arguments, operations, grant administration, and all other aspects of the Department's work, keeping in mind the President's declaration that "[i]t shall be the policy of the executive branch to vigorously enforce Federal law's robust protections for religious freedom." Exec. Order 13798, § 1 (May 4, 2017).
- Litigating Divisions and United States Attorney's Offices should also consider, in consultation with the Associate Attorney General, how best to implement the guidance with respect to arguments already made in pending cases where such arguments may be inconsistent with the guidance.
- Department attorneys shall also use the interpretive guidance in formulating opinions and advice for other Executive Branch agencies and shall alert the appropriate officials at such agencies whenever agency policies may conflict with the guidance.
- To aid in the consistent application of the Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. § 2000bb *et seq.*, and other federal-law protections for religious liberty, the Office of Legal Policy shall coordinate with the Civil Rights Division to

review every Department rulemaking and every agency action submitted by the Office of Management and Budget for review by this Department for consistency with the interpretive guidance. In particular, the Office of Legal Policy, in consultation with the Civil Rights Division, shall consider whether such rules might impose a substantial burden on the exercise of religion and whether the imposition of that burden would be consistent with the requirements of RFRA. The Department shall not concur in the issuance of any rule that appears to conflict with federal laws governing religious liberty, as set forth in the interpretive guidance.

- In addition, to the extent that existing procedures do not already provide for consultation with the Associate Attorney General, Department components and United States Attorney's Offices shall notify the Associate Attorney General of all issues arising in litigation, operations, grants, or other aspects of the Department's work that appear to raise novel, material questions under RFRA or other religious liberty protections addressed in the interpretive guidance. The Associate Attorney General shall promptly alert the submitting component of any concerns.

Any questions about the interpretive guidance or this memorandum should be addressed to the Office of Legal Policy, U.S. Department of Justice, 950 Pennsylvania Avenue N.W., Washington, D.C. 20530, phone (202) 514-4601.

Thank you for your time and attention to this important matter.